

CHAPTER - 13

ADDITIONAL HEADS OF INCOME

LEARNING OBJECTIVES

After studying Chapter 13, you shall be able to understand:

- ⊕ the concept of share of profit in a firm
- ⊕ the concept of foreign income
- ⊕ terms of foreign income
- ⊕ the concept of income from spouse or minor child
- ⊕ double taxation relief
- ⊕ contents of DTA
- ⊕ clubbing of income

According to Section 20 of the ITO, 1984, for the purpose of charge of income tax and computation of total income, seven heads of income is used, namely: salaries, interest on securities, income from house property, agricultural income, income from business or profession, capital gains and income from other sources. But according to the Rule 24 of the ITR, 1984, it has been seen that in the "Specimen Form of Income under the ITO, 1984 - Part II" total 10 heads have been given. Among those the additional heads are Share of profit in a firm, Income of the spouse or minor child as applicable u/s 43(4) and foreign income.

13.1 SHARE OF PROFIT IN A PARTNERSHIP FIRM

Partnership is an abstract relationship between the partners under certain circumstances. This is governed by the Partnership Act, 1932. As assessment is done for individuals, it is also done for a Partnership Firm. If an assessee is a partner of a firm and receives a certain amount of money as share of profit from the firm, it will be shown separately in the Income tax return under the head "Share of profit in a firm". As per Section 43(3), Where the assessee is a partner of a firm, then, whether the firm has made a profit or a loss, his share (whether a net profit or a net loss) shall be taken to be any salary, interest, commission or other remuneration payable to him by the firm in respect of the income year increased or decreased respectively by his share in the balance the profit or loss of the firm after the deduction of any interest, salary, commission or other remuneration payable to any partner in respect of the income year and such share shall be included in his total income. The details regarding the computation procedure of Share of profit in a Partnership Firm and other relevant topics have been explained in Chapter 18B of this book under the title "Assessment of Firms".

SELF REVIEW 13 - 1

What are the additional heads of income under the IT Rules, 1984?

13.2 FOREIGN INCOME WITHIN THE SCOPE OF TOTAL INCOME

According to Section 17(1)(a) of the ITO, 1984, all those incomes which accrue or arise outside Bangladesh is included under the head "Foreign Income". According to [Section 17(1)(a)(iii)] the total income of any income year of a resident [whether Bangladeshi or foreigner] also includes, all

income, from whatever sources derived which accrues or arises to him outside Bangladesh during that year. So, foreign income is taxable for residents. But for a non-resident [whether Bangladeshi or foreigner] this will not be considered as foreign income; and hence will not be included in total income. In addition to it, it should be remembered that foreign income doesn't also include any income from export since it is considered under the head "Income from Business or Profession".

SELF REVIEW 13 - 2

Mention the status of "Foreign Income" in computing total income of an assessee in terms of his residential status.

13.2.1 Terms of Foreign Income:

According to Section 18 of the ITO, 1984, some incomes accrue or arise in Bangladesh may be considered as foreign income and some other income accrue or arise outside Bangladesh may not be considered as foreign income:

1. Any income which falls under the head "Salaries", wherever [even in outside Bangladesh] paid if it is earned in Bangladesh; or it is paid by the Government or a local authority in Bangladesh to a citizen of Bangladesh in the service of such Government or authority; will be considered as income deemed to accrue or arise in Bangladesh. i.e. domestic income [Sec 18(1)]
2. Any income accruing or arising, whether directly or indirectly, through or from any business connection in Bangladesh is normally considered as domestic income; but if all the operations of the business are not carried out in Bangladesh, only such part of the income as is reasonably attributable to the operation carried out in Bangladesh shall be considered as income deemed to accrue or arise in Bangladesh; and the rest of the part will be considered as **foreign income**. [Sec 18(2)]
3. Any dividend paid outside Bangladesh by a Bangladeshi company will not be considered as foreign income. [Sec 18(3)]
4. Any income by way of interest payable, fees for technical services payable and royalty payable even if it is deemed to accrue or arise outside Bangladesh, will be domestic income if –
 - (a) It is paid by the Government; or
 - (b) It is paid by a person who is a resident or non-resident, where the interest, fees and royalties is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person in Bangladesh or for the purpose of making or earning any income from any source in Bangladesh; [Sec 18(4)(5)(6)]
5. But, any income by way of interest payable, fees for technical services payable and royalty payable will be considered as **foreign income**, if the interest, fees and royalties is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person outside Bangladesh or for the purpose of making or earning any income from any source outside Bangladesh; [Sec 18(4)(5)(6)]

13.2.2 Income Tax on Foreign Income:

According to the various provisions of the ITO, 1984 and SROs, following rules will be applicable for charging tax on foreign income:

1. Excluding company, if any individual assessee being a Bangladeshi citizen brings any income deemed to accrue or arise outside Bangladesh through banking channel, such income will be tax exempted and will not be included in total income [Sixth Schedule, Part A, Para 48].
2. But if it is not brought through banking channel, it will be included in total income, and hence will be taxable at normal rate.
3. If a non resident Bangladeshi other than company sends foreign remittance through banking channel, or invests it in a new local industry, shares, debentures or any government bond, no tax will be charged on it.

13.2.3 Double Taxation Relief / Agreement:

Fiscal jurisdiction is often the most aggressively guarded jurisdiction of any nation. As a consequence, even in times when economies are going global and borders fading, leading to liquid movement of goods, services and capital, double taxation is still one of the major obstacles to the development of inter-country economic relations. Nations are often forced to negotiate and accommodate the claims of other nations within their heavily guarded fiscal jurisdiction by the means of double taxation avoidance agreements, in order to bring down the barriers to international trade. The Fiscal Committee of OECD in the Model Double Taxation Convention on Income and Capital, 1977, defines 'the phenomenon of international juridical double taxation' as 'the imposition of comparable taxes in two or more states on the same tax payer in respect of the same subject matter and for identical periods'. Double tax treaties comprise of agreements between two countries, which, by eliminating international double taxation, promote exchange of goods, persons, services and investment of capital. These are bilateral economic agreements where the countries concerned evaluate the sacrifices and advantages which the treaty brings for each contracting state, including tax forgone and compensating economic advantages.

Avoidance of Double Taxation Agreement is an agreement between two countries seeking to avoid double taxation by defining the taxing rights of each contracting state with regard to cross-border flows of income and providing for tax credits or exemptions to eliminate double taxation. It also provides for exchange of information between treaty partners regarding evasion of tax.

13.2.4 Classification of Double Taxation Agreements:

Double taxation avoidance agreements, depending on their scope, can be classified as Comprehensive and Limited. Comprehensive Double Taxation Agreements provide for taxes on income, capital gains and capital, while Limited Double Taxation Agreements refer only to income from shipping and air transport, or estates, inheritance and gifts. Comprehensive agreements ensure that the taxpayers in both the countries would be treated equally and on equitable basis, in respect to problems relating to double taxation.

13.2.5 Objectives of Double Taxation Agreements:

The object of a Double Taxation Avoidance Agreement is to provide for the tax claims of two governments both legitimately interested in taxing a particular source of income either by assigning to one of the two the whole claim or else by prescribing the basis on which tax claims is to be shared between them. The need and purpose of tax treaties has been summarized by the OECD in the 'Model Tax Convention on Income and on Capital' in the following words: *It is desirable to clarify, standardize, and confirm the fiscal situation of taxpayers who are engaged, industrial, financial, or any other activities in other countries through the application by all countries of common solutions to identical cases of double taxation.*

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- ❖ The objectives of DTA agreements can be enumerated in the following words: First, they help in avoiding and alleviating the adverse burden of international double taxation, by –
 - a) laying down rules for division of revenue between two countries;
 - b) exempting certain incomes from tax in either country;
 - c) reducing the applicable rates of tax on certain incomes taxable in either countries.
- ❖ Secondly, and equally importantly tax treaties help a taxpayer of one country to know with greater certainty the potential limits of his tax liabilities in the other country.
- ❖ In third, still another benefit from the tax-payers point of view is that, to a substantial extent, a tax treaty provides against non-discrimination of foreign tax payers or the permanent establishments in the source countries vis-à-vis domestic tax payers.

13.2.6 Methods of Eliminating Double Taxation:

The objective of double taxation can be achieved Tax treaties employ various methods or a combination of-

- (a) **Exemption Method:** One method of avoiding double taxation is for the residence country to altogether exclude foreign income from its tax base. The country of source is then given exclusive right to tax such incomes. This is known as complete exemption method and is sometimes followed in respect of profits attributable to foreign permanent establishments or income from immovable property.
- (b) **Credit Method:** This method reflects the underline concept that the resident remains liable in the country of residence on its global income, however as far the quantum of tax liabilities is concerned credit for tax paid in the source country is given by the residence country against its domestic tax as if the foreign tax were paid to the country of residence itself.
- (c) **Tax Sparing:** One of the aims of the Bangladesh Double Taxation Avoidance Agreements is to stimulate foreign investment flows in Bangladesh from foreign developed countries. One way to achieve this aim is to let the investor to preserve to himself/itself benefits of tax incentives available in Bangladesh for such investments. This is done through "Tax Sparing". Here the tax credit is allowed by the country of its residence, not only in respect of taxes actually paid by it in Bangladesh but also in respect of those taxes Bangladesh forgoes due to its fiscal incentive provisions under the Bangladesh Income Tax Ordinance. Thus, tax sparing credit is an extension of the normal and regular tax credit to taxes that are spared by the source country i.e. forgiven or reduced due to rebates with the intention of providing incentives for investments.

The regular tax credit is a measure for prevention of double taxation, but the tax sparing credit extends the relief granted by the source country to the investor in the residence country by the way of an incentive to stimulate foreign investment flows and does not seek reciprocal arrangements by the developing countries.

13.2.7 Double Taxation Avoidance Agreements – Bangladesh Status:

According to Section 144 of ITO, 1984, the Government may enter into an agreement with the Government of any other country for the avoidance of double taxation and the prevention of fiscal evasion with respect to income tax and under the corresponding law in

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force in that country, and may, by notification in the official Gazette, make such provisions as may be necessary for implementing the agreement. The objectives of Bangladesh DTA are as follows:

- ⊕ to obtain a more effective relief from double taxation compared to relief provided under unilateral measures;
- ⊕ create a favorable climate for the inflow of foreign investment into the country;
- ⊕ to prevent evasion and avoidance of tax
- ⊕ to make special tax incentives provided by Bangladesh fully effective for taxpayers of capital exporting countries; and
- ⊕ to enhance international relationship.

Bangladesh has signed DTA with 33 countries as [UK, Singapore, Sweden, South Korea, Canada, Pakistan, Romania, Srilanka, France, Malaysia, Japan, India, Germany, Netherlands, Italy, Denmark, China, Belgium, Thailand, Poland, Philippines, Vietnam, Turkey, Norway, USA, Indonesia, Switzerland, Oman, Mauritius, Myanmar, UAE, Saudi Arabia & Belarus] till June 30, 2015. Negotiation is going on with some other countries like Egypt, Russia, Nepal, and Bahrain.

Name of the countries with which Agreement on Avoidance of Double Taxation is in force.

Name of the Country	SRO		Date of effect in Bangladesh [assessment year commencing on or after]
	No.	Date	
1. United Kingdom of Great Britain and Northern Ireland	227-L/80	08/07/1980	01/07/1978
2. Singapore	124-L/82	21/04/1982	01/01/1980
3. Sweden	382-L/83	19/10/1983	01/07/1984
4. Republic of Korea	433-L/84	02/10/1984	01/07/1984
5. Canada	247-L/85	06/06/1985	01/07/1982
6. Pakistan	221-L/88	11/07/1988	01/01/1980
7. Romania	348-L/88	23/11/1988	01/07/1989
8. Sri Lanka	365-L/88	10/12/1988	01/07/1989
9. France	2-L/89	04/01/1989	01/07/1989
10. Malaysia	67-L/90	15/02/1990	01/01/1982
11. Japan	235-L/91	06/08/1991	01/07/1992
12. India	45-L/93	27/02/1993	01/07/1993
13. Germany	1-L/94	01/01/1994	01/01/1990
14. The Netherlands	267-L/94	14/09/1994	01/07/1995
15. Italy	63-L/97	12/03/1997	01/07/1980
16. Denmark	72-L/97	17/03/1997	01/07/1997
17. China	114-L/97	13/05/1997	01/07/1998
18. Belgium	11-L/98	14/01/1998	01/07/1998
19. Thailand	222-L/98	07/09/1998	01/07/1999
20. Poland	39-L/99	03/03/1999	01/07/2000
21. Philippines	56-L/2004	04-03-2004	01-07-2004
22. Vietnam	301-L/2004	18-10-2004	01-07-2005
23. Turkey	308-L/2005	31-10-2005	01-07-2005

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24. Norway	20-L/2006	12-02-2006	01-07-2006
25. USA	71-L/2007	10-05-2007	01-07-2007
26. Indonesia	60-L/2007	26-04-2007	01-07-2007
27. Switzerland	52-L/2010	10-12-2007	01-07-2010
28. Oman	16-L/2009	02-02-2009	01-07-2009
29. Mauritius	122-L/2012	09-05-2012	01-07-2012
30. Myanmar	313-L/2012	18-10-2012	01-07-2012
31. Saudi Arabia	103-L/2012	15-04-2012	01-10-2011
32. UAE	313-L/2012	05-09-2012	01-07-2012
33. Belarush	189-L/2014	08-07-2014	01-06-2014

The foreign income of an assessee for which tax has already been paid in that foreign country, is known as "Doubly taxed income". According to Section 144 and 7th schedule of the ITO -1984, the provision for tax reliefs regarding this income are as follows:

Sources of Income	Section	Limit of Double taxation relief
From those countries with whom DTA has signed	144 and Schedule 7	Tax calculated as per the rate in the agreement, but it will not be more than the tax amount calculated on the basis of the average tax rate applicable in Bangladesh (considering foreign income in total income) on the foreign income.
From those countries with whom DTA has not yet been signed	145	Tax calculated on such doubly taxed income at the average rate of tax of Bangladesh or the average rate of tax of the said country, whichever is lower.

13.2.8 Contents of a DTA between Bangladesh and another country:

The Bangladesh model of Avoidance of Double Taxation Agreement consists of 29 Articles that are as follows:

- | | |
|------------|--------------------------------|
| Article 1 | Persons Covered |
| Article 2 | Taxes Covered |
| Article 3 | General Definitions |
| Article 4 | Resident |
| Article 5 | Permanent Establishment |
| Article 6 | Income from Immovable Property |
| Article 7 | Business Profits |
| Article 8 | Shipping and Air Transport |
| Article 9 | Associated Enterprises |
| Article 10 | Dividends |
| Article 11 | Interest |
| Article 12 | Royalties |
| Article 13 | Fees for Technical Services |
| Article 14 | Independent Personal Services |
| Article 15 | Dependent Personal Services |
| Article 16 | Director's Fees |
| Article 17 | Artists and Sportsmen |
| Article 18 | Pensions |
| Article 19 | Government Service |
| Article 20 | Students and Trainees |

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Article 21	Lecturers and Researchers
Article 22	Other Income
Article 23	Elimination of Double Taxation
Article 24	Non Discrimination
Article 25	Mutual Agreement
Article 26	Exchange of Information
Article 27	Diplomatic Agents and Consular Officers
Article 28	Entry into Force
Article 29	Termination

Illustration 13 - 1:

The total income of Mr. Aslam for the income year 2016 - 2017 was as:
 Income from Bangladesh Tk. 1,520,000; Income from Sweden Tk. 600,000; Income from Singapore Tk. 300,000; and Income from Russia Tk. 1,000,000. The income tax rate for foreigners in Sweden is 30%, but he has paid tax @ 25% as per DTA. 20% tax has been paid in Russia for the income generated in Russia. The income of Singapore has been brought in Bangladesh through banking channel. Compute the amount of double taxation relief for the assessment year 2017 - 2018.

Solution 13 - 1:

Computation of total income

	Tk.	Tk.
(a) Income from Bangladesh		1,520,000
(b) Income from Sweden		600,000
(c) Income from Russia		1,000,000
(d) Income from Singapore	300,000	
Less: Tax exempted	300,000	
Total		3,120,000

Computation of Tax payable in Bangladesh

		Rate	Tk.
Upto first	Tk. 250,000	0%	-
Upto next	400,000	10%	40,000
Upto next	500,000	15%	75,000
Upto next	600,000	20%	120,000
Upto next	1,370,000	25%	3,42,500
Total	3,120,000		5,77,500
Less: Double taxation relief (Note)			2,96,160
Net tax payable			2,81,340

Notes: (1) Average tax rate in Bangladesh = $[(5,77,500/31,20,000) \times 100] = 18.51\%$ (2) Tax relief from income from Russia (No DTA) = @ 20% or average tax rate i.e. 18.51% whichever is lower = $(10,00,000 \times 18.51\%) = \text{Tk. } 1,85,100$ (3) Tax relief from income from Sweden (DTA exists) = $(6,00,000 \times 25\%) = 1,50,000$ and Maximum limit = $(6,00,000 \times 18.51\%) = \text{Tk. } 1,11,060$; whichever is lower. (4) Total double taxation relief = $(1,85,100 + 1,11,060) = \text{Tk. } 2,96,160$

13.3 INCOME OF THE SPOUSE OR MINOR CHILD

In computing the total income of any individual for the purpose of assessment, Income of the spouse or minor child will be included as per Section 43(4) of the ITO, 1984.

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13.3.1 Clubbing of income:

An assessee is generally taxed in respect of his own income. However, in some cases the Income Tax Act deviates from this general provision and the assessee may also be assessed in respect of incomes of some other persons as per Section 43(4) and 43(5) of the ITO, 1984. The inclusion of other's income in the total income of an assessee is known as "Clubbing of Income". The provisions have been enacted to counteract a generally prevalent and growing tendency on the part of the tax-payers to dispose of their property or income in such a way that tax-liability may be avoided or reduced. Some of these provisions relate to income of the spouse and minor child.

13.3.2 Scope of the Income of the Spouse or Minor Child [Section 43(4)]:

Section 43(4) of the ITO, 1984, aims at foiling an individual's attempt to avoid or reduce the incidence of tax by transferring assets to the spouse or minor child, or admitting the spouse as a partner or admitting a minor child to the benefits of partnership in a firm in which such individual is a partner [C.I.T vs. Manilal Dhanji (1962) 44 I.T.R 876, 881]. According to this section, in computing the total income of any individual for the purpose of assessment, there shall be included-

- (a) so much of the income of the spouse or minor child of such individual as arises, directly or indirectly, –
 - (i) from the membership of the spouse in a firm where such individual is a partner;
 - (ii) from the admission of the minor child to the benefits of partnership in a firm of which such individual is a partner;
 - (iii) from assets transferred directly or indirectly to the spouse otherwise than by way of gift or for adequate consideration or in connection with an agreement to live apart; or
 - (iv) from assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual otherwise than by way of gift or for adequate consideration; and
- (b) so much of the income of any person or association of persons as arises from assets transferred, otherwise than [by way of gift or] for adequate consideration, to such person or association of persons by such individual for the benefit of the spouse or minor child or both.

Note: (1) For the purpose of the application of this subsection, it is immaterial whether the partnership was formed before or after the commencement of the Act (C.I.T vs. Lakshmanier [1941] I.T.R 668) and whether the transfer was effected before or after that date. (2) If the individual is not a partner in the firm in which the spouse or minor child has a share, the spouse's or minor child's share of profits in such a firm cannot be included under this section in the individual's total income. (C.I.T vs. Gokladas Hukumchand [1943] I.T.R 462,469) (3) Where both father and mother are the partners, then the income should be clubbed with the income of that parent whose total income excluding the income from the firm is greater. (4) The provision of clubbing the income will not apply when the child attains his majority even during the income year. (5) The clubbing of income from spouse will be applicable only when the spouse doesn't submit his/her individual return.

13.4 SCOPE OF THE INCOME OF THE OTHER PERSONS TO BE INCLUDED IN THE TOTAL INCOME OF THE ASSESSEE [SEC 43(5)]

As per Section 43(5) of the ITO, 1984, All income arising to any person by virtue of a settlement or disposition whether revocable or not from assets remaining the property of the [settlor] or disponer, shall be deemed to be income of the [settlor] or disponer, and all income arising to any

person by virtue of a revocable transfer of assets shall be deemed to be income of the transferor and shall be included in the total income of such person under the head "Income from Other Sources". As per Section 43(6), for the purpose of sub-section 43(5):

- (a) a settlement, disposition or transfer shall be deemed to be revocable if it contains any provision for the retransfer directly or indirectly of the income or assets to the [settlor], disponent or transferor, or in any way gives the settlor, disponent or transferor a right to resume power directly over the income or assets;
- (b) the expression "settlement or disposition" shall include any disposition, trust, covenant, agreement or arrangement, and the expression [settlor] or disponent, in relation to a settlement or disposition, shall include any person by whom the settlement or disposition was made.

Illustration 13 – 2:

Determine the income of the spouse or minor child in order to include in the total income of Mr. X:

- a) Mr. X has purchased shares of Tk. 100,000 of Private Limited Companies in the name of his wife from which his wife has received Tk. 34,000 as dividend.
- b) Mr. X has gifted Prize bond of Tk. 20,000 to his 10 years old son. His son has received Tk. 100,000 as reward from winning the lottery.
- c) Mr. X has deposited Tk. 50,000 as fixed deposit in the name of his married daughter from which his daughter has received tk. 5,000 as interest income.
- d) Mr. X has received Tk. 8,500 as interest from the Savings Account of his minor child

Solution 13 – 2:

Mr. X		Tk.
Income year: 2016 – 2017; Assessment year: 2017 – 2018		
Income of the spouse or minor child:		Tk.
(a) Dividend income of the spouse $[34,000 \div 85 \times 100]$	40,000	
Less: Exempted	25,000	15,000
(b) Interest on minor's bank account $[(8,500 \times 100) \div 85]$		10,000
Total		25,000

Notes: (1) It has been assumed that his wife has not submitted any return in her own name. (2) Income from any gifted assets to the minor child or spouse will not be included in the total income. (3) Income from assets transferred directly or indirectly to the married daughter will not be included in the total income. (4) Assuming that the wife and the minor do not have TIN, so TDS rate on dividend and interest income is 15%.

Illustration 13 – 3:

Determine the income of the spouse or minor child in the total income of Mr. Asad:

- a) Mr. Asad has purchased shares of Tk. 100,000 of Public Limited Companies in the name of his wife from which his wife has received Tk. 34,000 as dividend. His wife has deposited this dividend in a fixed deposit account in her own name and received Tk. 1,500 as interest income.
- b) Mr. Asad has given his second wife a house to live separately. Income from this house property during the year Tk. 20,000.
- c) Mr. Asad has opened a Savings Scheme of Tk. 200,000 in the name of one of his relatives in order to maintain educational expenses of his son who stays in his relative's house in Khulna. Tk. 1,800 is the amount of gross interest from this savings per month. Mr. Asad will take back the Savings scheme at the end of the graduation of his son.

Solution 13 - 3:

Mr. Asad
Income year: 2016 - 2017
Assessment year: 2017 - 2018

	Tk.	Tk.
Income of the spouse or minor child:		
(a) Dividend income of the spouse [34,000 ÷ 85 × 100]	40,000	
Less: Exempted	25,000	15,000
Income from Other Sources:		
(a) Int. on savings scheme opened in the name of other person (1,800 × 12)		21,600
		36,600

Notes: (1) It has been assumed that his wife has not submitted any return in her own name. (2) Since the interest income of Tk. 1,500 has been received from the amount which has been invested and given by his wife, such interest will not be included as income of the spouse. But if his wife submits return, both the dividend and interest income will be included in her total income. (3) Interest on savings scheme opened in the name of his relative will be included under the head "income from other sources". (4) Assuming that the spouse does not have TIN, so TDS rate on dividend income is 15%.

KEY POINTS

1. According to Income Tax Rule - 24, with heads specified in Section 20 of the ITO, 1984 other additional heads are Share of profit in a firm, Income of the spouse or minor child as applicable u/s 43(4) and foreign income.
2. Foreign income is taxable for residents but for a nonresident [whether Bangladeshi or foreigner] this will not be included in total income.
3. Foreign income doesn't include any income from export since it is considered under the head "Income from Business or Profession".
4. If any resident assessee (other than a company) brings any income deemed to accrue or arise outside Bangladesh through banking channel, such income will be tax exempted.
5. The Government may enter into an agreement with the Government of any other country for the avoidance of double taxation and the prevention of fiscal evasion with respect to income tax.
6. When the foreign income arises from a country with which Bangladesh has signed DTA, tax will be calculated based on the rate stated in the agreement.
7. The inclusion of other's income in the total income of an assessee is known as "Clubbing of Income" which basically indicates income of spouse or minor child and may also include other person's income.
8. The clubbing of income from spouse will be applicable only when the spouse doesn't submit his / her individual return.
9. If the individual is not a partner in the firm in which the spouse or minor child has a share, the spouse's or minor child's share of profits in such a firm cannot be included under this section in the individual's total income.
10. The provision of clubbing the income will not apply when the child attains his majority even during the income year.

Multiple choice questions:

1. Income of the spouse or minor child is applicable under section ---- of the ITO, 1984 –
 - (a) 43(1)
 - (b) 43(2)
 - (c) 43(3)
 - (d) 43(4)
2. To include other person's income in the total income of an assessee is known as –
 - (a) Addition of income
 - (b) Clubbing of income
 - (c) Grossing up of income
 - (d) Merging of income
3. Which should be included in the income from spouse or minor child –
 - (a) Income from assets gifted to minor child.
 - (b) Income from married daughter's asset
 - (c) Income from spouse's asset who submits separate return
 - (d) Income from minor child's bank account.
4. Foreign income is applicable under Section ----- of ITO, 1984 –
 - (a) 17
 - (b) 19
 - (c) 27
 - (d) 47
5. Double taxation agreement is conducted under Section ----- of ITO, 1984 –
 - (a) 121
 - (b) 17
 - (c) 124
 - (d) 144
6. Tax on foreign income arising from a country where Bangladesh has signed DTA is at –
 - (a) a rate in the agreement
 - (b) an average rate
 - (c) exempted
 - (d) lower of a & b
7. Tax on foreign income from a country where Bangladesh has not signed DTA is at –
 - (a) a rate in the agreement
 - (b) an average rate of the said country
 - (c) an average rate of Bangladesh
 - (d) lower of b & c
8. If foreign income is not brought through banking channel, the rate of tax will be –
 - (a) maximum rate
 - (b) normal rate
 - (c) average rate
 - (d) zero rated
9. Income of a minor child from a partnership firm where the assessee is not a partner, can be –
 - (a) included with assessee's total income
 - (b) avoided to calculate assessee's total income
 - (c) taxed at average rate
 - (d) tax exempted

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10. Income from any assets which has been gifted to the minor child or spouse, can be –
- included with assessee's total income
 - avoided to calculate assessee's total income
 - taxed at average rate
 - none of the above

Identify the following statements as True (T) or False (F):

- If foreign income is not brought through banking channel, it will not be included in total income, and hence will not be taxable.
- Any dividend paid outside Bangladesh by a Bangladeshi company will be considered as foreign income.
- The clubbing of income from spouse will be applicable only when the spouse doesn't submit his / her individual return.
- A person can be assessed for the income of other person.
- Bangladesh has signed DTA with 33 countries till 30th June, 2015.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 13 – 1:** What do you mean by income from spouse or minor child? Explain the scope of income from spouse or minor child.
- Question 13 – 2:** What do you mean by clubbing of income? In which cases the Income of the other persons are to be included in the total income of the assessee?
- Question 13 – 3:** What do you mean by foreign income? Explain the rules regarding income tax computation on foreign income.
- Question 13 – 4:** What is DTA? Why it is important for Bangladesh?
- Question 13 – 5:** "According to Income Tax Rule – 24 total 10 heads has been to compute income of an assessee" – explain.
- Question 13 – 6:** "An assessee is generally taxed in respect of his own income. However, in some cases the Income Tax Act deviates from this general provision and the assessee may also be assessed in respect of incomes of some other persons" – do you agree? Explain.
- Question 13 – 7:** Explain the provisions regarding tax relief on doubly taxed income as per ITO, 1984.
- Question 13 – 8:** Write short note on:
- Foreign income
 - Clubbing of income
 - DTA
 - Income from spouse or minor child

Problem 13 – 1:

Determine the income of the spouse or minor child in order to include in the total income of Mr. X:

- Mr. X has purchased shares of Tk. 100,000 of Private Limited Companies in the name of his wife from which his wife has received Tk. 25,000 as dividend
- Mr. X has gifted Prizebond of Tk. 30,000 to his 10 years old son. His son has received Tk. 50,000 as reward from winning the lottery.
- Mr. X has deposited Tk. 60,000 as fixed deposit in the name of his married daughter from which his daughter has received tk. 6,000 as interest income.

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- (d) Mr. X has received Tk. 9,000 as interest from the Savings Account of his minor child
- (e) Mr. X has purchased shares of Tk. 100,000 of Public Limited Companies in the name of his wife from which his wife has received Tk. 25,000 as dividend. His wife has deposited this dividend in a fixed deposit account in her own name and received Tk. 1,500 as interest income.
- (f) Mr. X has given his second wife a house to live separately. Income from this house property during the year Tk. 20,000.
- (g) Mr. X has opened a Savings Scheme of Tk. 200,000 in the name of one of his relatives in order to maintain educational expenses of his son who stays in his relative's house in Khulna. Tk. 1,800 is received as interest from this savings. Mr. X will take back the Savings scheme at the end of the graduation of his son.

Problem 13 – 2:

The total income of Mr Aslam for the income year 2016-17 was as follows:

- (a) Income from Bangladesh Tk. 1,500,000
- (b) Income from Saudi Arabia Tk. 600,000
- (c) Income from South Africa Tk. 300,000
- (d) Income from Russia Tk. 1,000,000

The income tax rate for foreigners in Saudi Arabia is 30%, but he has paid tax @ 25% as per DTA. 20% tax has been paid in Russia for the income generated in Russia. The income of South Africa has been brought in Bangladesh through banking channel. Compute the amount of double taxation relief in the assessment year 2016-17.

Answers:

Multiple choice questions		True/False
1. d	6. a	1. F
2. b	7. d	2. F
3. d	8. b	3. T
4. a	9. b	4. T
5. d	10. b	5. T

Self review 13 – 1:

There are three additional heads of income as per the IT Rules, 1984. They are Share of profit in a firm, Income of the spouse or minor child as applicable u/s 43(4) and foreign income.

Self review 13 – 2:

Foreign income is taxable for residents and will be included in total income. But for a nonresident foreign income will not be included in total income.

CHAPTER - 14

TAX DEDUCTED AT SOURCE

LEARNING OBJECTIVES

After studying Chapter 14, you shall be able to understand:

- ⊕ the concept of TDS and its benefits
- ⊕ income subject to TDS
- ⊕ application of TDS for salary, security, contract and other business or profession, house property etc.
- ⊕ consequence of failure to deduct tax at source
- ⊕ double check method
- ⊕ final settlement of tax liability

In some specific areas, the paying authority is required to deduct tax at source before the income reaches to the hand of assessee. In such a case, the assessee receives after tax income (disposable income) in one sense though it is not the final settlement and the tax deducting or paying authority is working as an agent of the government. TDS is sometimes termed as "withholding tax" as it remains withholding in the hand of the tax deducting authority until the amount so collected is not deposited to the government exchequer. But it is advance payment of tax from the assessee's point of view who will deduct this amount from his total tax liability at year-end. TDS is advantageous for both the government and the assessee. The mechanism can be figured out as:

14.1 ADVANTAGES

14.1.1 To the Government

- ⊕ Government can ensure the certainty of its income.
- ⊕ Administrative functional complexity has been shifted to the tax deducting authority.
- ⊕ Flow of income throughout the year.

14.1.2 To the Assessee

- ⊕ Reduce the burden of paying a huge amount of money as tax at year-end.
- ⊕ Assessee are not required to save to pay tax. So the western concept of PAYE (Pay As You Earn) is fully applied here which is thought to be the justification of this TDS. Because, it is the culture of the people of developed countries to spend the total earnings of a week at weekend. So, at the end of the year, they will have nothing left for the government. So, assessee prefer the government to receive taxes before earnings come to their hand.

14.2 TDS IN IT ORDINANCE AND IT RULES

Sections 48 to 63 of chapter VII of ITO, 1984 and Rules 11 to 18 of IT Rules, 1984 deal with TDS.

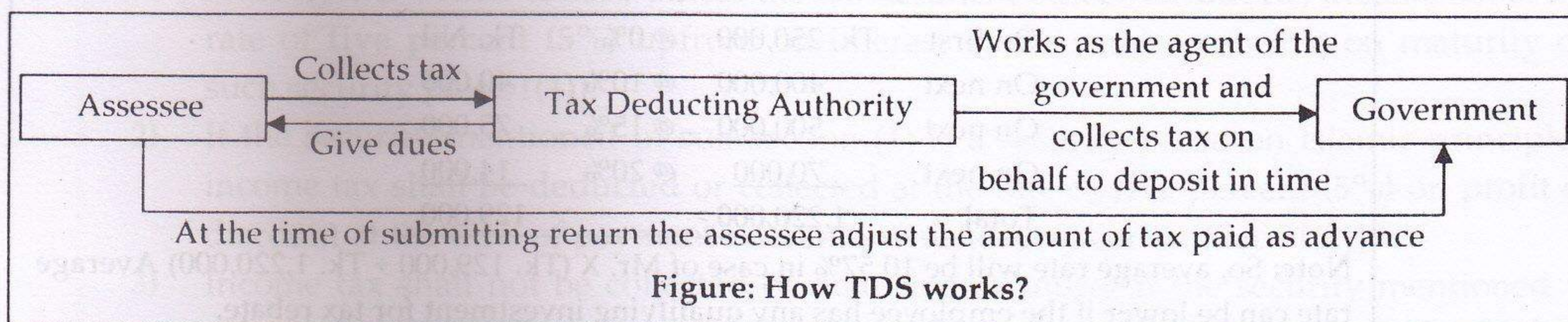
14.3 INCOME SUBJECT TO DEDUCTION AT SOURCE (U/S 49)

Under ITO, tax shall be deducted or collected at source in respect of the following income, namely:

1. Income classifiable under the head "Salaries";
2. Income from discount on the real value of Bangladesh Bank bills;

3. Income classifiable under the head "Interest on securities";
4. Income derived on account of supply of goods, execution of contracts or services rendered;
5. Income derived by the importers on account of import goods;
6. Income derived on account of indenting commission;
7. Income derived on account of winnings from lottery or crossword puzzles, as referred to in section 19 (13);
8. Any income chargeable under this Ordinance which is paid or payable to a non-resident;
9. Income classifiable under the head "Income from house property";
10. Income derived on account of export of manpower;
11. Income derived on account of purchase by public auction;
12. Income derived on account of acting in films;
13. Income derived on account of travel agency commission or incentive bonus;
14. Income derived on account of shipping agency commission;
15. Income derived from commission, discount or fees payable to distributors for distribution or marketing of manufactured goods;
16. Income derived on account of interest on saving deposits, fixed deposits or term deposits and share of profits on term deposits;
17. Income derived on account of payment from workers' participation fund;
18. Income derived on account of insurance commission;
19. Income classifiable under the head "Capital gains";
20. Income derived on account of fees for professional or technical services;
21. Income derived on account of manufacture of cigarettes manually without any mechanical aid whatsoever;
22. Income derived from compensation against acquisition of property;
23. Income derived on account of interest on savings instruments;
24. Income derived on account of running of brick field;
25. Income derived on account of running of services rendered by the doctors;
26. Income derived on account of running of commission of letter of credit;
27. Income derived on account of survey by a surveyor of general insurance company;
28. Income derived on account of commission, remuneration or charges as a foreign buyer's agent;
29. Income from dividends;
30. Income derived on account of rendering certain services;
31. Income derived on account of shipping business carried on both inside and outside Bangladesh by a resident assessee;
32. Income derived on account of business of real estate and land developer;
33. Income derived by an exporter on account of export of any commodity;
34. Income derived by a member of a Stock Exchange on account of transaction of shares, debentures, mutual funds, bonds or securities;
35. Income derived on courier business of a non resident;
36. Income derived on account of export cash subsidy;
37. Income derived on account of renewal of trade license;
38. Income derived on account of freight forward agency commission;
39. Income derived on account of rental power;
40. Income derived on account of interest of Post Office Savings Bank Account;
41. Income derived from transfer of securities or mutual fund units by sponsor shareholders of a company etc.;

42. income derived on account of rental value of vacant land or plant or machinery;
43. Income derived on account of advertisement;
44. Income derived by foreign technician serving in a diamond cutting industry;
45. Income derived from services from convention hall, conference centre, room or, as the case may be, hall etc.;
46. From residents for any income by any service provided to any foreign person;
47. Income derived on account of international gateway service in respect of phone call;
48. Collection of tax from manufacturer of soft drink;
49. Income derived from insurance policy;
50. Deduction of tax from local letter of credit (L/C);
51. Income derived from any fees, revenue sharing, etc. from cellular mobile phone operator;
52. Income from transfer of share of any stock exchange;
53. Income from transfer of share of company listed in any stock exchange;
54. Income derived from lease of property.
55. Any sum paid by real estate developer to land owner.



SELF REVIEW 14 - 1

Explain – (a) What is TDS? (b) Who will deduct tax from whom? (c) Advantages of TDS.

14.4 INCOME QUALIFYING FOR TDS, DEDUCTING AUTHORITY, TDS RATES

14.4.1 Salaries (U/s - 50)

Tax is deducted at source from salaries by the paying authorities (employer) at the time of making payment of salaries at an average of the rates applicable to the estimated total income for that assessment year. The average rate in this case will be the expected one, not actual [Section 50(1)].

Notwithstanding the provision of sub section (1), where any Government official is acting as Drawing and Disbursing Officer (DDO) or making or signing a bill for himself or for any other official subordinate to him to draw salary from the Government or any authority, as the case may be, he shall, at the time of making or signing such bill, deduct tax at a rate representing the average of the rates applicable to the estimated total income of such officials if such annual salary chargeable to tax exceeds the taxable limit for that income year [Section 50(1A)]. For the purposes of sub-section (1A), respective Government Accounts Office shall issue a tax deduction certificate in prescribed form within the thirty first day of July following the financial year [Section 50(1B)].

Points to remember:

- a) If the employer fails to deduct tax from the salary at the time of making the payment, he cannot charge it as allowable deduction. U/s - 30(a)

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- b) If the annual salary income of the specific employee falls below the exemption limit (say, Tk. 250,000), no need for TDS. No exemption is allowed for non-resident.
- c) In this case, the TDS rate is said to be an average rate. The computation of average rate is very simple.

First, for the specific employee or classes of employees, we have to compute the expected annual taxable income under the head “Salaries” assuming that there is no income from other heads.

Second, we have to apply the regular rates on the taxable income as calculated earlier and compute the total tax liability.

Third, average rate will be calculated by dividing the total tax liability with total taxable salary income. Tax will be deducted at source from the salary income of the said employee or classes of employees at the calculated average rate at the end of every month when salary becomes due and paid.

Example: Let us assume that the annual taxable salary income (after allowing for all exemptions as available in case of various components of salary income) of Mr. X results taka 1,220,000. Total tax liability of Mr. X at regular rate will be:

On first	Tk. 250,000	@ 0%	Tk. Nil
On next	400,000	@ 10%	40,000
On next	500,000	@ 15%	75,000
On next	<u>70,000</u>	@ 20%	<u>14,000</u>
Total	<u>1,220,000</u>		<u>129,000</u>

Note: So, average rate will be 10.57% in case of Mr. X (Tk. 129,000 ÷ Tk. 1,220,000) Average rate can be lower if the employee has any qualifying investment for tax rebate.

- d) But the paying authorities may deduct No TDS or TDS at a lesser rate in accordance with a certificate, issued by the DCT after being satisfied on payee’s application, where the certificate specifies that-
- (i) No TDS will be charged in a case where the tax payable on the total income of the payee has already been deducted or collected from such payee under ITO, 1984 for the rest of the income year.
 - (ii) TDS will be charged at a lower rate for the rest of the income year in a case where the payee may, after adjusting the tax already deducted or collected from such payee under ITO, 1984, be liable to pay a lesser sum of tax than the tax chargeable on his total income.

14.4.2 Discount of the real value of Bangladesh Bank bill (U/s – 50A)

Any person responsible for paying any amount on account of discount on the real value of Bangladesh Bank bills shall, at the time of making such payment, deduct tax at the maximum rate on the amount so payable or the rate applicable to such amount, whichever is greater. If no such applicable rate is available, then the rate will be:

	Rate (max. rates)
1. Individual	30%
2. Companies	
(i) Publicly Traded – others	25%
(ii) Companies not publicly traded	35%
(iii) Bank, Insurance, Financial Institutions	40% or 42.5%

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(iv) Merchant Banks	37.50%
(v) Mobile phone companies (For publicly traded 40%)	45%
(vi) Cigarette mfg. companies	45%

Note: No tax shall be deducted under this section where the said bill is purchased by an approved superannuation fund or pension fund or gratuity fund or a recognized provident fund, or a workers' profit participation fund.

14.4.3 Remuneration to Members of Parliaments (U/s – 50B)

Any person responsible for paying remuneration to a Member of Parliament shall deduct tax, at the time of making such payment, at **average rate** applicable to the estimated total remuneration of the payee for that income year.

14.4.4 Interest on Securities (U/s – 51)

- 1) Any person responsible for issuing a security of the government or a security approved by the Government, income of which is classifiable under the head "Interest on securities", shall collect, unless the Government otherwise directs, income tax at the rate of **five percent (5%)** upfront on interest or discount receivable on maturity on such security [Sec 51(1)].
- 2) If the security mentioned in sub-section (1) is a security based on Islamic principles, income tax shall be deducted or collected at the rate of **five percent (5%)** on profit or discount at the time of payment or credit, whichever is earlier [Sec 51(2)].
- 3) Income tax shall not be collected or deducted at source if the security mentioned in sub-section (1) is a Treasury bond/Treasury bill issued by the Government [Sec 51(3)].

Note: There is no exemption limit for TDS except the tax-exempt government securities and zero coupon bond.

14.4.5 Payment to Contractors, etc. (U/s – 52 & Rule – 16)

According to Section 52, where any payment is to be made by a specified person to a resident on account of –

- a) execution of a contract, other than a contract for providing or rendering a service mentioned in any other section of Chapter VII;
- b) supply of goods;
- c) manufacture, process or conversion;
- d) printing, packaging or binding;

the person responsible for making the payment shall, at the time of making such payment, deduct tax at such rate, not exceeding **ten percent (10%)** of the base amount, as may be prescribed. *Provided that*

- (a) the rate of tax shall be fifty percent (50%) higher if the payee does not have the twelve-digit Taxpayer's Identification Number at the time of making the payment.
- (b) tax shall not be deducted in respect of clause (b) of sub-section (1) in respect of the purchase of direct materials that constitute cost of sales or cost of goods sold of a trading company or a manufacturing company, as the case may be;
- (c) where any imported goods on which tax has been paid at source under section 53 is supplied, tax at source on the said supply shall be B-A, where-
A= the amount of tax paid under section 53,
B= the amount of tax applicable under this section if no tax were paid under section 53."

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In this section –

- (a) the specified person means –
- (i) the Government, or any authority, corporation or body of the Government, including its units, the activities of which are authorized by any Act, Ordinance, Order or instrument having the force of law in Bangladesh;
 - (ii) a project, programme or activity where the Government has any financial or operational involvement;
 - (iii) a joint venture or a consortium;
 - (iv) a company as defined in clause (20) of section 2 of this Ordinance;
 - (v) a co-operative bank;
 - (vi) a co-operative society;
 - (vii) a financial institution;
 - (viii) a Non-Government Organisation registered with the NGO Affairs Bureau;
 - (ix) a school, a college, an institute or a university;
 - (x) a hospital, a clinic or a diagnostic centre;
 - (xi) a trust or a fund;
 - (xii) a firm;
 - (xiii) a public-private partnership;
 - (xiv) a foreign contractor, a foreign enterprise or an association or a body established outside Bangladesh; and
 - (xv) any artificial juridical person not mentioned above;
- (b) “contract” includes a sub-contract, any subsequent contract, an agreement or an arrangement, whether written or not;
- (c) “base amount” is the higher of the contract value or bill/invoice amount or payment;
- (d) “payment” includes a transfer, a credit or an adjustment of payment.

According to Rule 16, the following rates are applicable for payment to contractors, etc.:

- (a) subject to clause (b), in case of a payment made under sub-section (1) of section 52, the deduction on payment shall be at the rate specified in the Table-1 below:

Where base amount:	Deduction rate of tax
does not exceed taka 15 lakh	2%
exceeds taka 15 lakh but does not exceed taka 25 lakh	3%
exceeds taka 25 lakh but does not exceed taka 1 crore	4%
exceeds taka 1 crore but does not exceed taka 5 crore	5%
exceeds taka 5 crore but does not exceed taka 10 crore	6%
exceeds taka 10 crore	7%

- (b) The rate of deduction from the following classes of persons shall be -

In case of:	Rate
oil supplied by oil marketing companies –	
(a) Where the payment does not exceed taka 2 lakh	Nil
(b) Where the payment exceeds taka 2 lakh	0.60%
oil supplied by dealer or agent (excluding petrol pump station) of oil marketing companies, any amount	1%
supply of oil by any company engaged in oil refinery, on any amount	3%
company engaged in gas transmission, on any amount	3%
company engaged in gas distribution, any amount	3%

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Provided that-

- (a) the rate of tax shall be fifty percent (50%) higher if the payee does not have a twelve-digit Taxpayer's Identification Number at the time of making the payment;
- (b) where the payee or the income of the payee, which is subject to tax at source under section 52, is exempted from tax or is subject to a reduced tax rate in an income year, the Board may on an application made by the payee in this behalf gives a certificate in writing that the payment referred to section 52 for that income year shall be made without any deduction or with deduction at a proportionately reduced rate, as the case may be.

Example: Assume that payments are made to a contractor as: 1st installment on July 1, 2016 Tk. 100,000; 2nd installment on October 1, 2016 Tk. 300,000; 3rd installment on January 1, 2017 Tk. 400,000; 4th installment on April 1, 2017 Tk. 1,000,000 and 5th installment on July 1, 2017 Tk. 300,000. Deductions from each installment will be made as:

Installment	Payments	Cumulative Payments	Applicable Rates	Total Deduction	Current Deductions
(1)	(2)	(3)	(4)	(5) = 3 × 4	(6) = For 3rd install. (16,000 - 6,000)
First	1,00,000	1,00,000	2%	2,000	2,000
Second	3,00,000	4,00,000	2%	8,000	6,000
Third	4,00,000	8,00,000	2%	16,000	10,000
Fourth	1,00,000	1,80,000	3%	54,000	36,000
Total deduction for the year 2016-17 exactly equivalent to 1,800,000 × 3%					54,000
Fifth	3,00,000	3,00,000	1%	3,000	3,000

Example: Mr. Kabir, a listed regular supplier of AB Bank Limited, has 12 digits TIN. He supplies different stationary items against different work orders. He supplied stationary items worth Tk. 18,00,000 on 20th July and Tk. 20,00,000 on 1st October 2017. The amount of applicable TDS and amount paid to Mr. Kabir is as follows:

For the first installment: Base amount: Tk. 18,00,000		
Applicable TDS (Tk. 18,00,000 @ 3%)	= Tk. 54,000	
Amount paid after deduction of TDS	= Tk. 18,00,000 - Tk. 54,000	= Tk. 17,46,000
For the second installment: Base amount: Tk. 18,00,000 + Tk. 20,00,000 = Tk. 38,00,000		
Applicable TDS (Tk. 38,00,000 @ 4%)	= Tk. 152,000 with earlier TDS	= Tk. 54,000
TDS to be deducted from this bill	= Tk. 152,000 - Tk. 54,000	= Tk. 98,000
Amount paid after deduction of TDS	= Tk. 20,00,000 - Tk. 98,000	= Tk. 19,02,000

14.4.6 Deduction from payment of royalties etc. (U/s - 52A)

Where any payment is to be made by a specified person to a resident on account of royalties, franchise, or the fee for using license, brand name, patent, invention, formula, process, method, design, pattern, knowhow, copyright, trademark, trade name, literary or musical or artistic composition, survey, study, forecast, estimate, customer list or any other intangibles, the person responsible for making the payment shall, at the time of making payment, deduct income tax at the rate specified below -

Description of payment	Rate of deduction of tax
Where base amount does not exceed taka 25 lakh	10%
Where base amount exceeds taka 25 lakh	12%

Provided that the rate of tax shall be fifty percent (50%) higher if the payee does not have a twelve-digit Taxpayer's Identification Number at the time of making the payment.

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In this section –

- (a) the specified person means –
- (i) the Government, or any authority, corporation or body of the Government, including its units, the activities of which are authorized by any Act, Ordinance, Order or instrument having the force of law in Bangladesh;
 - (ii) a project, programme or activity where the Government has any financial or operational involvement;
 - (iii) a joint venture or a consortium;
 - (iv) a company as defined in clause (20) of section 2 of this Ordinance;
 - (v) a co-operative bank;
 - (vi) a co-operative society;
 - (vii) a financial institution;
 - (viii) a Non-Government Organisation registered with the NGO Affairs Bureau;
 - (ix) a school, a college, an institute or a university;
 - (x) a hospital, a clinic or a diagnostic centre;
 - (xi) a trust or a fund;
 - (xii) a firm;
 - (xiii) a public-private partnership;
 - (xiv) a foreign contractor, a foreign enterprise or an association or a body established outside Bangladesh; and
 - (xv) any artificial juridical person not mentioned above;
- (b) “contract” includes a sub-contract, any subsequent contract, an agreement or an arrangement, whether written or not;
- (c) “base amount” means the higher of the - (i) contract value; or (ii) bill or invoice amount; or (iii) payment;
- (d) “payment” includes a transfer, a credit or an adjustment of payment.

Example: X Company has signed an agreement with Mr. Kabir to use a design invented by him at an agreed value of Tk. 30 lakh and decided to pay him Tk. 10 lakh instantly as first installment. The amount of applicable TDS and amount paid to Mr. Kabir follows:

For the first installment: Base amount: Tk. 30,00,000
 Applicable TDS as per base amount = 12% and Amount of 1st installment = Tk. 10,00,000
 Applicable TDS (Tk. 10,00,000 @ 12%) = Tk. 1,20,000
 Amount paid after deduction of TDS = Tk. 10,00,000 – Tk. 1,20,000 = Tk. 8,80,000

14.4.7 Deduction from payment for Certain Services (U/s – 52AA)

Where any payment is to be made by a specified person to a resident on account of a service as mentioned in this section, the person responsible for making the payment shall, at the time of making such payment, deduct income tax at the rate specified below:

Description of service and payment	Rate where base amount	
	does not exceed taka 25 lakh	exceeds taka 25 lakh
Advisory or consultancy service	10%	12%
Professional service, technical services fee, or technical assistance fee	10%	12%
Catering service, Cleaning service, Collection and recovery service, Private security service, Supply of		

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manpower, Creative media service, Public relations service, Event management service, Training, workshop, etc. organization and management service, any other service of similar nature-		
(a) On commission	10%	12%
(b) On gross bill amount	1.5%	2%
Media Buying agency service		
(a) On commission	10%	12%
(b) On gross bill amount	0.5%	0.65%
Indenting commission	6%	8%
Meeting fees, training fees or honorarium	10%	12%
Mobile network operator, technical support service provider or service delivery agents engaged in mobile banking operations	10%	12%
Credit rating agency	10%	12%
Motor garage or workshop	6%	8%
Private container port or dockyard service	6%	8%
Shipping agency commission	6%	8%
Stevedoring / berth operation commission	10%	12%
Transport service, car rental	3%	4%
Any other service which is not mentioned in Chapter VII of this Ordinance and is not a service provided by any bank, insurance or financial institutions	10%	12%

Provided that if the amount for services mentioned in SL No. 3 and 4 of the Table shows both commission or fee and gross bill amount tax shall be the higher amount between (i) and (ii) where-

- (i) tax calculated on commission or fee applying the relevant rate in the table; and
(ii) $B \times C \times D$, where,
B = Gross bill amount
C = 10% for Sl. 3 and 3.5% for Sl. 4, and
D = rate of tax applicable on commission or fee:

Provided further that the rate of tax shall be fifty percent (50%) higher if the payee does not have a twelve-digit Taxpayer's Identification Number at the time of making the payment:

Provided further that where the Board, on an application made in this behalf, gives a certificate in writing that the person rendering such service is otherwise exempted from tax under any provision of this Ordinance, the payment referred to in this section shall be made without any deduction or with deduction at a lesser rate, as the case may be, for that income year."

In this section –

- (a) the specified person means –
(i) the Government, or any authority, corporation or body of the Government, including its units, the activities of which are authorized by any Act, Ordinance, Order or instrument having the force of law in Bangladesh;

- (ii) a project, programme or activity where the Government has any financial or operational involvement;
 - (iii) a joint venture or a consortium;
 - (iv) a company as defined in clause (20) of section 2 of this Ordinance;
 - (v) a co-operative bank;
 - (vi) a co-operative society;
 - (vii) a financial institution;
 - (viii) a Non-Government Organisation registered with the NGO Affairs Bureau;
 - (ix) a school, a college, an institute or a university;
 - (x) a hospital, a clinic or a diagnostic centre;
 - (xi) a trust or a fund;
 - (xii) a firm;
 - (xiii) a public-private partnership;
 - (xiv) a foreign contractor, a foreign enterprise or an association or a body established outside Bangladesh; and
 - (xv) any artificial juridical person not mentioned above;
- (b) "contract" includes a sub-contract, any subsequent contract, an agreement or an arrangement, whether written or not;
- (c) "base amount" is the higher of contract value; or bill/invoice amount; or payment;
- (d) "payment" includes a transfer, a credit or an adjustment of payment;
- (e) "professional services" means-
- (i) Services rendered by a doctor;
 - (ii) Services rendered by a person carrying on any profession or any other services applying professional knowledge.

Example: X Company has signed an agreement with Square Hospital Ltd. To provide them with cleaning services. The company has submitted the following bill for the cleaning service:

For cleaning service expense	- Tk. 800,000
Commission @ 10%	- <u>Tk. 80,000</u>
Total Bill	- Tk. 880,000

The amount of applicable TDS and amount paid to X Company is as follows:

Base amount: Less than Tk. 25,00,000	
Applicable TDS on gross amount as per base amount	= Tk. 800,000 @ 1.5% = Tk. 12,000
Applicable TDS on commission = Tk. 80,000 @ 10%	= Tk. 8,000
Total Applicable TDS = Tk. 12,000 + Tk. 8,000	= Tk. 20,000
Amount paid after deduction of TDS = Tk. 880,000 - Tk. 20,000	= Tk. 860,000

14.4.8 Commission of Clearing & Forwarding (C&F) Agents (U/s - 52AAA)

The Commissioner of Customs shall make collection on account of commission receivable by clearing and forwarding agents at the rate of 10% on such commission at the time of clearance of goods imported or exported.

14.4.9 Cigarette Manufacturers (U/s - 52B)

Any person responsible for selling banderols to any manufacturer of cigarettes shall, at the time of selling banderols, collect tax from such manufacturers on account of the manufacture of cigarette at the rate of 10% of the value of the banderols. Here, "manufacture of cigarettes" means manufacture of cigarettes manually without any mechanical aid whatsoever.

14.4.10 Compensation against Acquisition of Property (U/s – 52C)

Any person, responsible for paying any amount of compensation against acquisition by the Government of any immovable property shall, at the time of paying such compensation deduct advance tax at the rate of-

- (a) 2% of the amount of such compensation where the immovable property is situated in any city corporation, paurasava or cantonment board;
- (b) 1% of the amount of such compensation where the immovable property is situated outside any city corporation, paurasava or cantonment board.

14.4.11 Deduction at source from Interest on Savings Instruments (U/s – 52D)

Notwithstanding anything contained in any other provision of this Ordinance or any other law being in force in respect of exemption from tax on interest of savings instrument purchased by an approved superannuation fund or pension fund or gratuity fund or a recognized provident fund or a workers' profit participation fund, any person responsible for making any payment by way of interest on any savings instruments shall, at the time of such payment, deduct income tax at the rate of **five percent (5%)** on such interest:

Notes:

- (a) *Provided that no tax shall be deducted under this section where the cumulative investment at the end of the income year in the pensioners' savings certificate does not exceed Tk. 500,000. But if the cumulative investment exceeds Tk. 500,000, 5% TDS will be applicable on the interest amount of the whole investment.*
- (b) *Provided further that no tax shall be deducted from interest or profit arising from Wage earners development bond, US dollar premium bond, US dollar investment bond, Euro premium bond, Euro investment bond, Pound sterling investment bond or Pound sterling premium bond.*

Example 1: Mr. Jalil is a Non Resident Bangladeshi (NRB) living in Canada. He has purchased Wage Earners Development Bond (WEDB) of Tk. 50 lac on July 01, 2016. He earned interest of Tk. 6 lac from the said WEDB during the income year 2016-17. Moreover he has also earned net Tk. 4 lac from house property. Under such circumstances, no TDS will be applicable on interest income from WEDB in the assessment year 2017-18. In the assessment year 2017-18, Mr. Jalil will pay tax on only house property income Tk. 4 lac @ regular rate.

Example 2: Mr. Khalil is a retired government officer. He has retired on April 2016 and purchased Pensioner Savings Certificate of Tk. 30 lac on July 01, 2016. He earned interest of Tk. 3,95,700 from the said Savings Certificate during the income year 2016-17. Moreover he has also earned Tk. 12 lac from consultancy. Under such circumstances, 5% TDS i.e. Tk. 19,785 will be applicable on interest income from Savings Certificate in the assessment year 2016-17.

Example 3: Mr. Sumon is a Non Resident Bangladeshi (NRB) living in Canada. He has purchased 5-year Wage Earners Development Bond (WEDB) of Tk. 3 lac on July 01, 2015 and again purchased 5-year Wage Earners Development Bond (WEDB) of Tk. 10 lac on July 01, 2016. Under such cases, no TDS will be applicable on interest from the WEDB during the income year 2016-17.

Example 4: Mr. Babu is a government officer. He has retired on April 2016 and purchased 5-year Pensioner Savings Certificate of Tk. 4 lac on July 01, 2016 and again purchased 5-year Pensioner Savings Certificate of Tk. 15 lac on July 01, 2017. Under such cases, no TDS will be applicable on interest from the Savings Certificate during the income year 2016-17 But during the income year 2017-18, since the accumulated investment in Pensioner Savings Certificate has reached to Tk. 19 lac (i.e. exceeds Tk. 5 lac limit), 5% TDS will be applicable on whole interest income from the Pensioner Savings Certificate of Tk. 19 lac in the assessment year 2018-19.

14.4.12 Deduction at source from payment to beneficiary of workers' participation fund (U/s – 52DD)

Notwithstanding anything contained in any other provision of this Ordinance or any other law being in force in respect of exemption from tax on payments from workers' participation fund, any person responsible for making any payment from such fund to a beneficiary shall, at the time of such payment, deduct income tax at the rate of **five percent (5%)** on such payment.

14.4.13 Brick Manufacturers (U/s – 52F)

Tax is collected from brickfield at the time of giving permission for the manufacturing of bricks by the permission giving authorities at: Taka 45,000 for one section brickfield; Taka 70,000 for one and half section brickfield; Taka 90,000 for two-section brickfield; and Taka 120,000 for brick field producing bricks through automatic machine. As per clarification of NBR, one section brickfield means, length 20 feet, width 54 feet and height 8 feet and so on.

14.4.14 Commission of Letter of Credit (U/s – 52I)

Any person (basically bank) responsible for opening letter of credit for the purpose of import of goods for himself or for any other person shall, at the time of collecting commission with respect to letter of credit, deduct income tax at the rate of **5%** on the amount of such commission. Banks are required to deposit all taxes deducted by the 15th of the following month to Bangladesh Bank through challan under appropriate head of accounts and such amount is considered to be the advance payment of tax by the Bank.

14.4.15 Collection of tax from travel agent (U/s – 52JJ)

Notwithstanding anything contained in any other provisions of this Ordinance, any person responsible for making any payment to a resident any sum by way of commission or discount or any other benefits, called by whatever name, convertible into money for selling passenger tickets or air cargo carriage shall deduct or collect advance tax at the rate of **zero point three zero percent (0.30%)** of the total value of the tickets or any charge for carrying cargo by air at the time of payment to such resident [Sec - 52JJ(1)].

Where any incentive bonus, performance bonus or any other benefits, called by whatever name, is to be paid in relation to such sale of tickets or bill for carrying cargo by air in addition to the amount mentioned in sub-section (1), person responsible for making such payment shall deduct an amount equal to $(A/B) \times C$, where –

“A” is the amount of incentive bonus, performance bonus or any other benefits as mentioned in subsection (2)

“B” is the amount of commission or discount or any other benefits as mentioned in sub-section (1), and

“C” is the amount of source tax on commission or discount or any other benefits as mentioned in subsection (1) [Sec - 52JJ(2)].

For the purpose of computation of value of tickets or charge, any payment made in respect of any embarkation fees, travel tax, flight safety insurance, security tax and airport tax shall not be included in such value or charge) [Sec - 52JJ(3)].

Explanation: In this section, “payment” includes a transfer, a credit or an adjustment of payment.

Example: A Travel Agent has sold tickets of Tk. 80,00,000 and received 5% commission and 2% incentive bonus. TDS applicable on such amount is -

TDS on commission (Tk. 80,00,000 @ 0.3%) = Tk. 24,000

TDS on incentive bonus = $\frac{80,00,000 \times 2\%}{80,00,000 \times 5\%} \times \text{Tk. 24,000}$ = Tk. 9,600

14.4.16 Collection of tax by City Corporation or Pourashava at the time of renewal of trade license (U/s – 52K)

City Corporation or Pourashava shall collect tax for each trade license at the time of renewal of such license at the rate of Tk. 500 in Dhaka South/North or Chittagong City Corporation; Tk. 300 in any other city corporation; Tk. 300 in any paurashava at any district headquarter; and Tk. 100 in any other paurashava.

14.4.17 Collection of tax from freight forward agency commission (U/s – 52M)

Any person responsible for making any payment by way of freight forward agency commission shall deduct tax at the rate of 15% on the amount paid at the time of such payment or credit of such payment to the account of the payee.

14.4.18 Collection of tax on account of rental power (U/s – 52N)

Notwithstanding anything contained in ITO, 1984, Bangladesh Power Development Board shall deduct tax at the rate of **six percent (6%)** at the time of payment to any rental power company on account of purchase of rental power from that company.

14.4.19 Collection of tax from foreign technician in a diamond cutting industry (U/s – 52O)

The employer responsible for paying salaries received by or due to any foreign technician employed in diamond cutting industries, who is neither a citizen of Bangladesh nor was resident in Bangladesh in any of the four years immediately preceding the year in which he arrived in Bangladesh, as remuneration for services rendered by him for a period not exceeding three years from the date of his arrival in Bangladesh, during such period shall deduct tax at the rate of **5%** of such salaries at the time of making payment or giving credit whichever is earlier. *The provision of this clause shall not be applicable to foreign technicians appointed after June 30, 2010.*

14.4.20 Deduction of tax for services from convention hall, conference centre, etc. (U/s – 52P)

Any person, being a corporation, body or authority established by or under any law including any company or enterprise owned, controlled or managed by it, or a company registered under the Companies Act, 1994, any Non-government Organization registered with N.G.O Affairs Bureau or any university or medical college or dental college or engineering college which makes any payment to any person on account of renting or using space of convention hall, conference centre, room or, as the case may be, hall, hotel, community centre or any restaurant, shall deduct tax at the rate of **five percent (5%)** from the whole amount paid for the services thereof at the time of making such payment or at the time of credit of such payment to the account of the payee : *Provided that no deduction shall be made by a company when such amount is paid directly to the government.*

14.4.21 Deduction of tax from resident for any income in connection with any service provided to any foreign person (U/s – 52Q)

Any person, responsible for paying or crediting to the account of a resident any sum remitted from abroad by way of service charges or consulting fees or commissions or remunerations or any other fees called by whatever name for any service rendered or any

work done by a resident person in favor of a foreign person, shall deduct tax at the rate of **ten percent** of the amount so paid at the time of making such payment or credit of such payment to the account of the payee.

14.4.22 Deduction of tax from receipts in respect of international phone call (U/s – 52R):

The bank, through which any sum on account of International Gateway (IGW) Services in respect of international phone call is received, shall deduct tax at the rate of **one point five percent (1.5%)** of the total amount representing the said receipt at the time of crediting it to the account of the International Gateway (IGW) Services operator.

The International Gateway (IGW) Services operator, by which any sum related to international phone call is paid or credited to the account of Interconnection Exchange (ICX), Access Network Services (ANS) or any other person under an agreement with the Bangladesh Telecommunication Regulatory Commission (BTRC), shall deduct tax at the rate of **seven point five percent (7.5%)** on the whole amount so paid or credited at the time of such payment or credit under the said agreement.

Where any amount is paid or credited in respect of outgoing international calls, the provider of Interconnection Exchange (ICX) services or Access Network Services (ANS) shall deduct tax at the rate of **seven point five percent (7.5%)** on the whole amount so paid or credited at the time of such payment or credit.

Notwithstanding anything contained in sub-section (1), (2), or (2A) where the Board gives a certificate in writing on an application made by a person that income of the person is exempted from tax or will be liable to tax at a rate of tax less than the rate specified in this section, the person responsible for giving any payment shall, make the payment-

- (a) without deduction of tax; or
- (b) after deducting tax at a rate specified in the certificate.

14.4.23 Manufacturer of soft drink (U/s – 52S)

The Security Printing Corporation (Bangladesh) Limited, or any other person responsible for delivery of banderols or stamps, shall collect, at the time of delivery of such banderols or stamps to any manufacturer of soft drinks, etc. **tax @ 4%** of the value of such soft drinks or mineral or bottled water as determined for the purpose of the VAT.

14.4.24 Deduction of tax from any payment in excess of premium paid on life insurance policy (U/s – 52T)

Any person responsible for paying to a resident, any sum in excess of premium paid for any life insurance policy maintained with any life insurance company, shall deduct, at the time of payment of such excess amount to the policy holder, income tax at the rate of 5% on such sum: *Provided that no deduction of tax shall be made in case of death of such policy holder.*

Example 1: Mr. Nikhil has taken an 18 year 3PP Life Insurance Policy from Metlife on 15.09.1998. The policy value and annual premium is Tk. 100,000 and Tk. 7,500 respectively. Mr. Nikhil has received 25% of policy value Tk. 25,000 after 6 years, 25% of policy value Tk. 25,000 after 12 years and 50% of policy value plus bonus Tk. 125,000 after 18 years. The TDS will be calculated as:

Profit from life insurance policy	= Total receipt against policy – Total premium paid
	= (25,000+25,000+125,000) – (7,500 × 18)
	= 175,000 – 135,000 = Tk. 40,000

So, the TDS will be 5% on Tk. 40,000 i.e. Tk. 2,000.

Example 2: Mr. Zakaria has taken a 16 year Education Insurance Policy for his son from Metlife on 15.09.1999. The policy value is Tk. 100,000 & annual premium is Tk. 7,600. He has received total Tk. 230,000 after 16 years at maturity on September 2016. The TDS will be calculated as:

Profit from education insurance policy = Total receipt against policy – Total premium paid
 = Tk. 230,000 – (7,600 × 16)
 = 230,000 – 121,600 = Tk. 108,400

So, the TDS will be 5% on Tk. 108,400 i.e. Tk. 5,420.

Example 3: Mr. Farid has taken an 18 year 3PP Life Insurance Policy from Metlife on January 15, 2010. The policy value and annual premium is Tk. 100,000 and Tk. 9,000 respectively. Mr. Farid has received 25% of policy value Tk. 25,000 after 6 years on January 2015. No TDS will be applicable on this amount as it is not profit rather a refund of a part of the policy value.

14.4.25 Deduction from payment on account of local letter of credit (U/s – 52U)

The bank or financial institution, through which any local L/C or any financing agreement, called by whatever name, is made between two or more persons within the country for purchasing or procuring of any goods and proceeds of such goods are paid, shall deduct tax at the rate of 3%, on the total proceeds exceeding five lakh taka, at the time of paying or crediting such proceeds to the account of the person or persons providing such goods. Provided that no tax shall be deducted under this section from the payment related to local L/C and any other financing agreement in respect of purchase or procurement of rice, wheat, potato, onion, garlic, peas, chickpeas, lentils, ginger, turmeric, dried chillis, pulses, maize, coarse flour, flour, salt, edible oil, sugar, black pepper, cinnamon, cardamom, clove, date, cassia leaf, computer accessories, jute, cotton, yarn or and all kinds of fruits.

Example 1: A Ltd. has issued a local L/C of Tk. 2 crore in favor of X Ltd for supplying machineries. The machineries are to be used by A Ltd. in its factory. Under such circumstances Section 52U will not be applicable as the machineries are not purchased for resale even though it has been purchased through local L/C. In this case Section 52 and Rule 16 will be applicable.

Example 2: A Ltd. has issued a 90 days local L/C of Tk. 1 crore in favor of X Ltd (issued by Sonali Bank) for supplying electronic goods as per contract. The electronic goods are to be sold by A Ltd. through its different showrooms. Under such circumstances the L/C issuing bank i.e. Sonali Bank will deduct 3% TDS under section 52U at the time of paying or crediting the proceeds to X Ltd. The L/C negotiating Bank will not deduct any other TDS in this regard.

Example 3: A Ltd. has issued a 120 days local L/C of Tk. 10 crore in favor of X Ltd (issued by Prime Bank) on July 25, 2016 for supplying electronic goods as per contract. The electronic goods are to be sold by A Ltd. through its different showrooms. X Ltd. has sold the L/C to his bank Jamuna Bank Limited on August 01, 2016 under Inland Documentary Bill Purchase (IDBP) / Local Documentary Bill Purchase (LDBP) term. Under such circumstances the L/C negotiating bank i.e. Jamuna Bank will set the bill purchase price considering 3% TDS. At the end of the maturity the L/C issuing bank i.e. Sonali Bank will deduct 3% TDS (u/s 52U) at the time of paying or crediting the proceeds to Jamuna Bank and will issue a Tax Deduction at Source Certificate to A Ltd.

14.4.26 Deduction from payment by cellular mobile phone operator (U/s – 52V)

The Principal Officer of a cellular mobile phone operator company responsible for making any payment, on account of any revenue sharing or any license fees or any other fees or charges, called by whatever name, to the regulatory authority, shall deduct tax at the rate of ten percent (10%) of such payment at the time of credit to the payee or at the time of payment thereof, whichever is earlier.

14.4.27 Importers (U/s – 53 & Rule 17A)

The Commissioner of Customs or any appropriate officer shall collect an amount calculated at the rate of 5%, 2% & Tk. 800 respectively of the value of the imported goods in accordance with the list of goods specified in **Rule 17A**.

Notes: (1) In rule 17A, there is a list of 212 categories of imports with respective H. S. Code upon which no tax has to be collected at source. The list also contains some 18 goods imported from Bhutan which are also exempted from TDS. (2) The Board may exempt the importer of paying any taxes on application to the Board by the importer explaining that he is not likely to have any taxable income during the period.

14.4.28 Income from House Property (U/s – 53A)

Where, the Government or any authority, corporation or body, or any banking company or any co-operative bank or any non-governmental organization run or supported by any foreign donation or assistance or any university or medical college or dental college or engineering college or any college or school or hospital or clinic or diagnostic centre is a tenant in respect of a house property, the tenant shall deduct from the house rent paid or payable to the owner of a house property as advance tax @ 5%.

Notes: (1) In final assessment if it reveals that the earnings of the owner of the house property is not taxable, he is eligible to get refund in full or if the amount deducted is in excess, he is eligible to get refund to the extent of excess amount. (2) The DCT may issue a certificate to the owner on application by him explaining that his income is not assessable; payment of house rent to the owner would be made without any deduction until the certificate is cancelled.

14.4.29 Shipping Business (U/s – 53AA)

TDS @ 5% of the total freight received or receivable by a ship owned or chartered by a resident assessee for carrying passengers, livestock, mails or goods at the time of granting port clearance by customs authority, unless a certificate is received in prescribed manner from Deputy Commissioner of Taxes concerned. The deduction so made shall be treated as final tax liability under section 82C of the IT Ordinance. *Provided tax shall be collected @ 3% of total freight received or receivable from services rendered between two or more foreign countries.*

14.4.30 Income Derived from Export of Manpower (U/s – 53B & Rule – 17C)

The Director General, Bureau of Manpower, Employment and Training shall, before giving clearance (immigration clearance certificate) for export of any manpower, collect from the concerned exporter as advance tax at the rate of 10% of the service charge or fees.

14.4.31 Export of Certain Items (U/s – 53BB, SRO – 257/AIN/IT/10.08.16; 207/AIN/IT/29.06.16)

Tax is deducted at the rate of 1% on the total export proceeds by the concerned bank at the time of crediting the proceeds to the account of the exporter of knit wear and woven garments, terry towel, carton and accessories of garments industry, jute goods, frozen food, vegetables, leather goods, packed food. But the following two SROs has been issued to revise the rate of TDS:

This rate will be 0.70% for the export of all items except jute products from July 01, 2017 to June 30, 2018 [SRO – 256/AIN/IT/01.08.17]

This rate will be 0.60% for the export of jute products from July 01, 2016 to June 30, 2019 [SRO – 207/AIN/IT/29.06.16]

Example: Suppose, Mr. X exported knitwear and woven garments amounting to taka 1,000,000 and TDS will be taka 7,000 (0.70% of taka 1,000,000).

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Note: NBR may give a certificate on the basis of the assessee's application not to deduct tax or to deduct tax at a lesser rate if the income of the assessee is exempted from tax or is not liable to tax.

14.4.32 Member of Stock Exchange (U/s – 53BBB & SRO – 334/AIN/IT/27.10.2011)

Tax is collected at the rate of 0.05% on the total value of the shares, debentures, mutual funds, or securities transacted (buy and sell) by a member of stock exchange. The collection will be made by the Chief Executive Officer at the time of such payment. The collection so made shall be treated as final tax liability of the members under section 82C of the ITO.

14.4.33 Collection of tax from export of any goods except certain items (U/s – 53BBBB; SRO – 256/AIN/IT/01.08.17): The exporter's bank shall deduct tax @ 1% of the total export proceeds at the time of crediting the proceeds to the account of exporter of any goods except knit wear and woven garments, terry towel, carton and accessories of garments industry, jute goods, frozen food, vegetables, leather goods, packed food. But the following SRO has been issued to revise the rate of TDS:

This rate will be 0.70% for the export of all items except jute products from July 01, 2017 to June 30, 2018 [SRO – 256/AIN/IT/01.08.17]

This rate will be 0.60% for the export of jute products from July 01, 2016 to June 30, 2019 [SRO – 207/AIN/IT/29.06.16]

Note: The exporter may apply to the Board that his income is partly for fully exempted from tax and the Board may issue a certificate to credit such amount without deducting tax at source or deducting tax at a lesser rate as mentioned in the certificate.

14.4.34 Public Auction (U/s – 53C & Rule – 17D)

Any person making sale, by public auction through sealed tender or otherwise, of any goods or property belonging to the Government or any authority, corporation or body, or any company, or any banking company, or any insurance company or any co-operative bank shall collect, before delivering the possession of the goods or the property, as advance tax on the income from the sale price of such goods or property from the auction purchaser at the rate of 5%. In this case, sale of any goods or property includes the awarding of any lease to any person, including a lease of the right to collect octroi duties, fees or other levies, by whatever name called, but does not include sale of a plot of land.

14.4.35 Deduction or collection of tax at source from courier business of a non-resident (U/s – 53CCC)

Any person being a company registered under the Companies Act, 1913 (VII of 1913) or the Companies Act, 1994 (XVIII of 1994) working as local agent of a non-resident courier company shall deduct or collect tax in advance at the rate of **fifteen percent (15%)** on the amount of service charge accrued from the shipment of goods, documents, parcels or any other things outside Bangladesh.

14.4.36 Actors or Actresses (U/s – 53D & Rule – 17E)

A person responsible for making any part or full payment for purchasing a film, drama or television or radio programme or for making any part or full payment to another person for performing in those areas shall deduct tax @10% of the amount paid or payable at the time of making payment or credit of such payment to the account of the payee. *But no tax shall be deducted under this section if the total payment does not exceed Tk. 10,000.*

14.4.37 Deduction of tax at source from export cash subsidy (U/s – 53DDD)

Any person responsible for paying any amount on account of export cash subsidy to an exporter for promotion of export shall, at the time of payment or credit of such amount, deduct/collect tax in advance at the rate of **three percent (3%)** on the amount so payable.

14.4.38 Commission, Discount or Fees (U/s – 53E)

1. Any company making a payment or allowing an amount to a distributor, called by whatever name, or to any other person by way of commission, discount, fees, incentive or performance bonus or any other performance related incentive or any other payment or benefit of the similar nature for distribution or marketing of goods, shall deduct or collect tax at the time of payment or allowing the amount at the rate of **ten percent (10%)** of the amount of payment or the amount allowed or the value of benefits allowed, as the case may be.
2. Any company making a payment in relation to the promotion of the company or its goods to any person engaged in the distribution or marketing of the goods of the company shall, at the time of payment, deduct tax at the rate of **one point five percent (1.5%)** of the payment.
3. Any company, other than an oil marketing company, which sells goods to-
 - (a) Any distributor, or
 - (b) Any other person under a contract at a price lower than the retail price fixed by such company, shall collect tax from such distributor or such any other person at the rate of **five percent (5%)** on the amount equal to $B \times C$, where-
 - B = the selling price of the company to the distributor or the other person;
 - C = 5%.

Provided that a cigarette manufacturer company shall collect tax at the time of sale of its goods to such distributor or to such other person at the rate of three percent (3%) of the difference between the sale price to the distributor or the other person and the retail price fixed by such company.

Explanation: For the purpose of this section,
“payment” includes a transfer, credit or an adjustment of payment
“contract” includes an agreement or an arrangement, whether written or not.

Example: Suppose, a product of X Company is selling in the market at a price of Tk. 110 per unit. The company sells the product to its distributor at a price of Tk. 100 per unit. If the company sells goods worth Tk. 800,000 to a distributor, the amount of TDS to be deducted from the distributor is: Base value on which TDS will be imposed = $(800,000 \times 6\%) = \text{Tk. } 48,000$ and TDS = $(48,000 \times 5\%) = \text{Tk. } 2,400$

14.4.39 Commission or Remuneration paid to Agent of Foreign Buyer (U/s – 53EE)

Where, as per the terms of the L/C or under any other instruction, a bank, through which an exporter receives payment for export of goods, pays any amount out of the export proceeds to the credit of any person being an agent or a representative of the foreign buyer, as commission, charges or remuneration, the bank shall deduct/collect tax in advance @ **10%** on the commission, charges or remuneration so paid at the time of such payment.

14.4.40 Interest on Savings or Fixed Deposits (U/s – 53F & Rule – 17H)

Any person responsible for paying to a resident any sum by way of interest on any saving deposits or fixed deposits or any term deposit maintained with any scheduled bank including a

co-operative bank, or bank run on Islamic principles or non-banking financial institution or any leasing company or housing finance company, as the case may be, shall deduct, at the time of credit of such interest or share of profit to the account of the payee or at the time of payment thereof, whichever is earlier, income tax on such sum at:

- (a) 10% where the accountholder furnishes his twelve digit TIN to the payer;
- (b) 15% where the accountholder fails to furnish his 12 digit TIN to the payer. The tax rate will be 10% for savings deposit if balance does not exceed Tk. 1 lac at any time in the year; or
- (c) 10% where the person receiving such interest or share of profit is a public university, or an educational institution whose teachers are enlisted for Monthly Pay Order (MPO), following the curriculum approved by the Government and whose governing body is also formed as per Government rules or regulations, or any professional institute established under any law and run by professional body of CA, Cost and Management Accountants or Chartered Secretaries.

Notwithstanding anything contained in this Ordinance or any other law for the time being in force in respect of exemption of tax from any fund, any person responsible for paying any sum by way of interest or share of profit on any saving deposits or fixed deposits or any term deposit maintained with any Scheduled bank including a co-operative bank or any bank run on Islamic principles or non-banking financial institution or any leasing company or housing finance company, as the case may be, by or in the name of a fund shall deduct, at the time of credit of such interest or share of profit to the account of the fund or at the time of payment thereof, whichever occurs earlier, income tax at the rate of five percent (5%) on such sum.

Nothing contained in this section shall apply:

- ❖ *to interest or share of profit arising out of any DPS sponsored by the government or by a scheduled bank with prior approval of the government.*
- ❖ *to such payee or class of payees as the Board may, by a general or special order, specify, that income of such payee or class of payee is otherwise exempted from tax.*

14.4.41 Real Estate or Land Development Business (U/s – 53FF)

Tax is collected at the following rate from persons engaged in the real estate or land development business at the time of registration of such land and building:

- (a) In the case of building or apartment constructed for residential and commercial/ non-residential purposes TDS is as follows per square meter –

	Residential purpose	Commercial purpose
1. Gulshan Model Town, Banani, Baridhara, Motijheel C/A and Dilkusha C/A of Dhaka	Tk. 1,600 per square meter	Tk. 6,000 per square meter
2. Dhanmondi R/A, Defence Officers Housing Society (DOHS), Mohakhali, Lalmatia Housing Society, Uttara Model Town, Bashundhara R/A, Dhaka Cantonment Area, Karwan Bazar C/A of Dhaka, and Panchlaish R/A, Khulshi R/A, Agrabad and Nasirabad of Chittagong	Tk. 1,500 per square meter	Tk. 5,000 per square meter
3. In areas other than the areas mentioned in sub-clauses (i) and (ii)-		

A. if the area is within Dhaka South City Corporation, Dhaka North City Corporation and Chittagong City Corporation	Tk. 1,000 per square meter	Tk. 3,500 per square meter
B. if the area is within any other City Corporation	Tk. 700 per square meter	Tk. 2,500 per square meter
C. any other area	Tk. 300 per square meter	Tk. 1,200 per square meter

Provided that the rate of source tax under clause (a) in respect of a residential apartment shall be twenty percent (20%) lower if the size of the apartment, including common space, is not more than seventy square metre, and forty percent (40%) lower if the size of the apartment, including common space, is not more than sixty square metre.

- (b) In the case of land to which the document relates and on which stamp duty is chargeable under the Stamp Act, 1899 (Act No. II of 1899) at the rate of:
- (i) **Five percent (5%)** for Dhaka, Gazipur, Narayanganj, Munshiganj, Manikganj, Narsingdi and Chittagong districts;
 - (ii) **Three percent (3%)** for any other district.

14.4.42 Insurance Commission (U/s – 53G)

Any person responsible for paying to a resident any sum by way of commission or otherwise, for soliciting or procuring insurance business including business relating to the continuance, renewal or revival of policies of insurance, shall, at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a check/draft or any other mode, whichever is earlier, deduct income tax on such sum @ 5%.

Example: If the payment amounts to, say, taka 60,000 then the amount of TDS will be taka 3,000 (5% of taka 60,000).

14.4.43 Surveyors of General Insurance Company (U/s – 53GG)

A person (generally insurance companies) responsible for paying to a resident any sum by way of remuneration or fees for conducting any survey regarding settlement of claim of insurance shall, at the time of payment, deduct income-tax on such sum @ 15%.

14.4.44 Transfer of Property (U/s – 53H and Rule 17II)

Any registering officer responsible for registering any document of a person under the provisions of clause (b), (c) or (e) of sub-section (1) of section 17 of the Registration Act, 1908 (XVI of 1908) shall not register any document unless tax is paid at such rate as may be prescribed in relation to the property to which the document relates and on which stamp-duty is chargeable under Stamp Act, 1899 (II of 1899) by the person whose right, title or interest is sought to be transferred, assigned, limited or extinguished thereby, at the time of registration of such document. Provided that the rate of tax shall not exceed **Tk. 10,80,000** per katha (1.65 decimal) for land, **Tk. 90** per square feet for any structure, building, flat, apartment or floor space on the land, if any, or **four per cent (4%)** of the deed value, whichever is higher.

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Nothing in this section shall apply to a document relating to:

- ❖ sale by a bank or any financial institution as a mortgagee empowered to sell;
- ❖ mortgage of any property to any bank or any financial institution against any loan;

Rate of Tax (Rule 17II):

a. Rate of tax for land or land & building located in the following commercial areas:

Name of the commercial area or areas	Rate of tax per katha (1.65 decimal)
Gulshan, Banani, Motijheel, Dilkhusha, North South Road, Motijheel Expansion areas and Mohakhali of Dhaka	4% of the deed value or taka 10,80,000/- whichever is higher
Karwan Bazar of Dhaka	4% of the deed value or taka 6,00,000/- whichever is higher
Agrabad and CDA Avenue of Chittagong	4% of the deed value or taka 3,60,000/- whichever is higher
Narayanganj, Banga Bandhu Avenue, Badda, Sayedabad, Postogola and Gandaria of Dhaka	4% of the deed value or taka 3,60,000/- whichever is higher
Uttara Sonargaon Janapath, Shahbag, Panthapath, Banglamotor, Kakrail of Dhaka	4% of the deed value or taka 6,00,000/- whichever is higher
Nababpur and Fulbaria of Dhaka	4% of the deed value or taka 3,00,000/- whichever is higher

Provided that where any structure, building, flat, apartment or floor space is situated on the land, an additional tax shall be paid at the rate of taka 600/- (six hundred) per square meter or four per cent of the deed value of such structure, building, flat, apartment or floor space, whichever is higher.

b. Rate of tax for land or land & building located in the following areas:

Name of the area or areas	Rate of tax per katha
Uttara (Sector 1-9), Khilgaon rehabilitation area (beside 100 feet road), Azimpur, Rajarbagh rehabilitation area (beside bishwa road), Baridhara DOHS, Bashundhara (Block: A-G), Niketon of Dhaka, Agrabad, Halishohar, Panchlaish, Nasirabad, Mehedibag of Chittagong	4% of the deed value or taka 90,000/- whichever is higher
Gulshan, Banani and Baridhara of Dhaka	4% of the deed value or taka 3,00,000/- whichever is higher
Dhanmondi of Dhaka	4% of the deed value or taka 2,40,000/- whichever is higher
Kakrail, Segunbagicha, Bijoy Nagar, Eskaton, Green Road, Elephant Road, Fakirapool, Arambagh, Maghbazar (within one hundred feet of main road), Tejgaon Industrial Area, Sher-e-Banglanagar Administrative Area, Agargaon Administrative Area, Lalmatia, Mohakhali DOHS, Cantonment of Dhaka and Khulshi of Chittagong	4% of the deed value or taka 1,80,000/- whichever is higher

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Kakrail, Segunbagicha, Bijoy Nagar, Eskaton, Green Road, Elephant Road area (outside one hundred feet of main road) of Dhaka	4% of the deed value or taka 1,20,000/- whichever is higher
Green Road (from Road 3 to 8 of Dhanmondi Residential Area of Dhaka)	4% of the deed value or taka 2,40,000/- whichever is higher
Uttara (Sector 10 to 14), Nikunj (south), Nikunj (North), Badda Rehabilitation Area, Ganderia Rehabilitation Area, Syampur Rehabilitation Area, IG Bagan Rehabilitation Area, Tongi Industrial Area of Dhaka	4% of the deed value or taka 60,000/- whichever is higher
Syampur Industrial Area, Postagola Industrial Area and Jurain Industrial Area of Dhaka	4% of the deed value or taka 48,000/- whichever is higher
Khilgaon Rehabilitation Area (beside less than 100 feet road), Rajarbagh Rehabilitation Area (beside 40 feet and other internal road) of Dhaka	4% of the deed value or taka 72,000/- whichever is higher:
Goran (beside 40 feet road) and Hajaribagh Tannery Area of Dhaka	4% of the deed value or taka 30,000/- whichever is higher

Provided that where any structure, building, flat, apartment or floor space is situated on the land, an additional tax shall be paid at the rate of taka 600/- (six hundred) per square meter or four per cent of the deed value of such structure, building, flat, apartment or floor space, whichever is higher.

c. Rate of tax for land or land & building located in the following areas:

Name of the commercial area or areas	Rate of tax per katha (1.65 decimal)
Within the jurisdiction of Rajdhani Unnayan Kartripakya (RAJUK) and Chittagong Development Authority (CDA) except areas specified in schedule (a) and (b)	4% of the deed value
Within the jurisdiction of Gazipur, Narayanganj, Munshiganj, Manikganj, Narsingdi, Dhaka and Chittagong districts [excluding Rajdhani Unnayan Kartripakya (RAJUK) and Chittagong Development Authority (CDA)], and within any City Corporation (excluding Dhaka South City Corporation and Dhaka North City Corporation) and Cantonment Board	3% of the deed value
Areas within the jurisdiction of a paurasabha of any district headquarter	3% of the deed value
Areas of any other Pauroshova	2% of the deed value
Any other area not specified in schedule (a), (b) and (c)	1% of the deed value

Example 1: A piece of 5 katha plot, situated in Gulshan under the jurisdiction of Rajuk area, is sold out with a deed value of Tk. 9 Crore. What income tax is to be collected at the time of registration in this regard? (a) Income tax payable @ Tk. 10,80,000 per katha (Tk. 10,80,000 × 5) = Tk. 54,00,000 and (b) 4% of Deed Value = (Tk. 9,00,00,000 × 4%) = Tk. 36,00,000. So, the income tax payable amount during registration will be higher of above (a) and (b) i.e. Tk. 54,00,000.

Example 2: Mr. Hasan has purchased a 2,500 Sq. flat (with proportional ownership of 0.5 katha land) from a Real Estate Developer Company in Dhanmondi R/A. The Deed Value of the flat is Tk. 57,50,000 (value of land Tk. 20,00,000 and value of flat Tk. 37,50,000). Under such circumstances, what will be the amount of income tax payable during registration under Section 53FF and 53H?

Income tax payable under Section 53F: $(1,500 \times 2,500)/10.76 = \text{Tk. } 348,513$ [1 Sq. meter = 10.76 Sq. feet]. Income tax payable under Section 53H: Income tax payable for land - (a) Tk. 240,000 per katha (Tk. 240,000 \times 0.5) = Tk. 120,000 and (b) 4% of Deed Value = (Tk. 20,00,000 \times 4%) = Tk. 80,000. So, the income tax payable amount during registration for land will be higher of above (a) and (b) i.e. Tk. 120,000. Income tax payable for flat - (a) Tk. 600 per Sq. Meter: $(600 \times 2,500)/10.76 = \text{Tk. } 139,405$ [1 Sq. meter = 10.76 Sq. feet] and (b) 4% of Deed Value = (Tk. 37,50,000 \times 4%) = Tk. 150,000. So, the income tax payable amount during registration for flat will be higher of above (a) and (b) i.e. Tk. 150,000. Therefore, the total income tax payable amount for the land and flat will be (Tk. 120,000 + Tk. 150,000) = Tk. 270,000.

14.4.45 Collection of tax from lease of property (U/s – 53HH)

Any registering officer responsible for registering under the Registration Act, 1908 (XVI of 1908) any document in relation to any lease of immovable property for not less than ten years from any authority formed or established under any law or from any other person being an individual, a firm, an association of persons, a Hindu Undivided Family, a company or any artificial judicial person shall not register such document unless tax is paid @ 4% by the lessor on the lease amount of such property.

Explanation: For the purpose of this section, "any authority" shall mean Rajdhani Unnayan Kartripakkha (RAJUK), Chittagong Development Authority (CDA), Rajshahi Development Authority (RDA), Khulna Development Authority (KDA) or National Housing Authority."

14.4.46 Interest on Deposit of Post Office Savings Bank Account (U/s – 53I)

Tax shall be deducted at the rate of 10% on any amount of interest paid from post office savings bank account by interest paying authority at the time of credit to the account or payment whichever is earlier.

14.4.47 Rental Value of Vacant Land or Plant or Machinery (U/s – 53J)

Tax shall be deducted @ five percent at the time of payment of rent or credit of such payment to the account of the payee of vacant land or plant/machinery by the rent paying authority.

14.4.48 Advertising Bill of Newspaper or Magazine or Private Television Channel etc.

(U/s – 53K): Tax shall be deducted at the rate of 4% for making any payment to newspaper or magazine or private television channel or private radio station or any web site or any person on account of advertisement or purchasing airtime of private television channel or radio station or such web site by the paying authority.

14.4.49 Transfer of securities or mutual fund units by sponsor shareholders of a company etc. (Sec – 53M):

The SEC or Stock Exchange, as the case may be, at the time of transfer or declaration of transfer or according consent to transfer of securities or mutual fund units of a sponsor shareholder or director or placement holder of a company or sponsor or placement holder of a mutual fund listed with a Stock Exchange shall collect tax @ 5% on the difference between transfer value and cost of acquisition of the securities.

Explanation: For the purpose of this section: (1) 'transfer' includes transfer under a gift, bequest, will or an irrevocable trust (2) 'transfer value' of a security or a mutual fund unit shall be deemed

to be the closing price of securities or mutual fund units prevailing on the day of consent accorded by the SEC or the Stock Exchange, as the case may be, or where such securities or mutual fund units were not traded on the day such consent was accorded, the closing price of the day when such securities or mutual fund units were last traded.

14.4.50 Collection of tax from transfer of share (Sec – 53N):

The Principal Officer of a stock exchange shall deduct tax at the rate of fifteen per cent on any profits and gains arising from the transfer of share of a shareholder of stock exchange established under the Exchanges Demutualization Act, 2013 (Act No. 15 of 2013) at the time of transfer or declaration of transfer or according consent to transfer of such share, whichever is earlier. Here, for the purpose of the computation of profits and gains of share, the cost of acquisition of such share shall be the cost of acquisition incurred before the Exchanges Demutualization Act, 2013 (Act No. 15 of 2013) came into force.

Computation of cost of acquisition per share and tax on profit from transfer of shares:

- a) Cost of acquisition of all shares and TREC (Trading Right Entitlement Certificate) will be the amount paid by a shareholder company of Demutualised Stock Exchange to obtain the membership of former mutualised stock exchange.
- b) Cost of acquisition of all shares and TREC (Trading Right Entitlement Certificate) will be the amount shown in the balance sheet prior to demutualization (i.e. November 21, 2013) for obtaining the membership. If a shareholder company revalues this amount through revaluation and shows the difference in value under revaluation reserve, the revalued amount cannot be considered as cost of acquisition. Only the original cost of acquisition will be considered in this.
- c) Total cost of acquisition will be divided by total number of shares to obtain cost of acquisition per share.
- d) Profit or gain will be computed by deducting the cost of acquisition of transferred shares from selling/transferred price of such shares. 15% TDS will be applied on such profit or gain.
- e) Since cost of acquisition of all shares is the amount paid by a shareholder company of Demutualised Stock Exchange to obtain the membership of former mutualised stock exchange, cost of acquisition of TREC (Trading Right Entitlement Certificate) will be considered as nil and any profit or gain obtained from transfer of TREC will be considered as capital gain. 15% TDS under section 53N will not be applicable on this profit rather 15% tax on capital gain for companies under second schedule of ITO, 1984 will be applicable.
- f) These provisions are applicable from July 01, 2014.

Example 1: A Securities Ltd. is a current shareholder and former member of both DSE and CSE. After the demutualization, the company has received 72,15,106 shares from DSE and 42,87,330 shares from CSE of face value Tk. 10 each in addition to one TREC from both the stock exchanges. The details from the balance sheet on 31/12/2014 were:

	DSE	CSE
Original cost of membership acquisition	Tk. 1,16,06,000	Tk. 50,00,000
After Revaluation: Value of membership (on Assets side)	Tk. 7,21,51,060	Tk. 4,28,73,300
Revaluation reserve (on Equity section)	Tk. 6,05,45,060	Tk. 3,78,73,300

On March 2017, the company has sold 30 lac shares of DSE @ Tk. 90; 10 lac shares of CSE @ Tk. 85 and the TREC of CSE @ Tk. 5 crore. What will be amount of TDS in this regard?

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	DSE	CSE
Cost of acquisition to obtain the membership	Tk. 1,16,06,000	Tk. 50,00,000
No. of shares obtained from demutualised stock exchange	72,15,106	42,87,330
Cost of acquisition per share (1÷2)	Tk. 1.606857	Tk. 1.16622
No. of shares sold/transferred	30,00,000	10,00,000
<hr/>		
Selling/transfer price per share	Tk. 90	Tk. 85
Total proceeds from Selling/transfer price of shares (Tk.)	27,00,00,000	8,50,00,000
Cost of acquisition of transferred/sold shares (4×3)	Tk. 48,25,710	Tk. 11,66,220
Profit from transfer/sale of shares (6-7) (Tk.)	26,51,74,290	8,38,33,780
Rate of TDS under section 53N	15%	15%
Amount of TDS (8×15%) (Tk.)	3,97,76,143	1,25,75,067

Note: The full amount of proceeds from sale of the CSE TREC Tk. 5 crore will be considered as capital gain and 15% TDS under section 53N will not be applicable on this profit rather 15% tax on capital gain for companies under second schedule of ITO, 1984 will be applicable.

Example 2: B Securities Ltd. is a current shareholder and former member of the DSE. After the demutualization, the company has received 72,15,106 shares from DSE in addition to one TREC. Original cost of acquisition to obtain the DSE membership was Tk. 80,00,000 and the company has shown this amount as asset in the balance sheet on 31/12/2014 i.e. they haven't done any kind of revaluation. On January 2017, the company has sold 20 lac shares of DSE @ Tk. 50 each. Amount of TDS under section 53N in this regard will be as follows:

Cost of acquisition to obtain the membership	Tk. 80,00,000
No. of shares obtained from demutualised stock exchange	72,15,106
Cost of acquisition per share (1÷2)	Tk. 1.10878
No. of shares sold / transferred	20,00,000
Selling / transfer price per share	Tk. 50
Total proceeds from Selling / transfer price of shares	Tk. 10,00,00,000
Cost of acquisition of transferred / sold shares (4×3)	Tk. 22,17,560
Profit from transfer / sale of shares (6-7)	Tk. 9,77,82,440
Rate of TDS under section 53N	15%
Amount of TDS (8×15%)	Tk. 1,46,67,366

Example 3: C Securities Ltd. is a current shareholder and former member of the DSE. After the demutualization, the company has received 72,15,106 shares from DSE in addition to one TREC. Original cost of acquisition to obtain the DSE membership was Tk. 32,02,00,000 and the company has shown this amount as asset in the balance sheet on 30/06/2014 i.e. they haven't done any kind of revaluation. On September 2016, the company has sold 5 lac shares of DSE @ Tk. 40 each. Amount of TDS under section 53N in this regard will be as follows:

Cost of acquisition to obtain the membership	Tk. 32,02,00,000
No. of shares obtained from demutualised stock exchange	72,15,106
Cost of acquisition per share (1÷2)	Tk. 44.37911
No. of shares sold / transferred	5,00,000
Selling / transfer price per share	Tk. 40
Total proceeds from Selling / transfer price of shares	Tk. 2,00,00,000
Cost of acquisition of transferred / sold shares (4×3)	Tk. 2,21,89,555
Profit (loss) from transfer / sale of shares (6-7)	(Tk. 21,89,555)
Rate of TDS under section 53N	15%
Amount of TDS*	Nil

Note*: Since no profit has been earned from the transfer of shares, no TDS will be applicable under section 53N in this regard.

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Example 4: D Securities Ltd. is a current shareholder and former member of the CSE. After the demutualization, the company has received 42,87,330 shares from CSE in addition to one TREC. Original cost of acquisition to obtain the CSE membership was Tk. 3,00,000 and the company has shown this amount as asset in the balance sheet on 30/06/2014 i.e. they haven't done any kind of revaluation. On January 2017, the company has sold 10 lac shares of CSE @ Tk. 30 each. What will be amount of TDS under section 53N in this regard?

Cost of acquisition to obtain the membership	Tk. 3,00,000
No. of shares obtained from demutualised stock exchange	42,87,330
Cost of acquisition per share (1÷2)	Tk. 0.06997
No. of shares sold / transferred	10,00,000
Selling / transfer price per share	Tk. 30
Total proceeds from Selling / transfer price of shares	Tk. 3,00,00,000
Cost of acquisition of transferred / sold shares (4×3)	Tk. 69,970
Profit from transfer / sale of shares (6-7)	Tk. 2,99,30,030
Rate of TDS under section 53N	15%
Amount of TDS (8×15%)	Tk. 44,89,504

Example 5: E Securities Ltd. is a current shareholder and former member of the CSE. After the demutualization, the company has received 42,87,330 shares from CSE in addition to one TREC. Original cost of acquisition to obtain the CSE membership was Tk. 28,00,00,000 and the company has shown this amount as asset in the balance sheet on 30/06/2014 i.e. they haven't done any kind of revaluation. On April 2017, the company has transferred 10 lac shares of CSE @ Tk. 70 each. What will be amount of TDS under section 53N in this regard?

Cost of acquisition to obtain the membership	Tk. 28,00,00,000
No. of shares obtained from demutualised stock exchange	42,87,330
Cost of acquisition per share (1÷2)	Tk. 67.17468
No. of shares sold / transferred	10,00,000
Selling / transfer price per share	Tk. 70
Total proceeds from Selling / transfer price of shares	Tk. 7,00,00,000
Cost of acquisition of transferred / sold shares (4×3)	Tk. 6,71,74,680
Profit from transfer / sale of shares (6-7)	Tk. 28,25,320
Amount of TDS @ 15% (under section 53N) (8×15%)	Tk. 4,23,798

14.4.51 Payment by Real Estate Developer to Land Owner (U/s – 53P)

Where any person engaged in real estate or land development business pays any sum to the land owner on account of signing money, subsistence money, house rent or in any other form called by whatever name for the purpose of development of the land of such owner in accordance with any power of attorney or any agreement or any written contract, such person shall deduct tax at the rate of **fifteen per cent (15%)** on the sum so paid at the time of such payment.

14.4.52 Dividend (U/s – 54 & Rule 19):

The principal officer deducts tax at the time of making payment from dividend income at:

Resident or Non – Resident Bangladeshi Recipient

If the shareholder is a :

- company - At the rate applicable to the company
- : person other than company - 10% - Assessee having 12 digit TIN
- 15% - Assessee not having 12 digit TIN

14.4.53 Lottery (U/s – 55)

The person responsible for paying any amount on account of winnings shall, at the time of making such payment, deduct tax at the rate of **20%**.

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14.4.54 Income of a Non – Resident (U/s – 56)

Subject to the provisions of sub-section (2), the specified person or any person responsible for making payment to a non-resident of any amount which constitutes the income of such non-resident chargeable to tax under this Ordinance shall, unless such person is himself liable to pay tax thereon as agent, at the time of making such payment, deduct tax on the amount so payable at the rate, specified below:

Descriptions of services or payments	Rate
Advisory or consultancy service	20%
Pre-shipment inspection service	20%
Professional service, technical services, technical know-how/ technical assistance	20%
Architecture, interior design/ landscape design, fashion design or process design	20%
Certification, rating etc.	20%
Charge or rent for satellite, airtime or frequency, rent for channel broadcast	20%
Legal service	20%
Management service including event management	20%
Commission	20%
Royalty, license fee or payments related to intangibles	20%
Interest	20%
Advertisement broadcasting	20%
Advertisement making or Digital marketing	15%
Air transport or water transport	7.5%
Contractor or sub-contractor of manufacturing, process or conversion, civil work, construction, engineering or works of similar nature.	7.5%
Supplier	7.5%
Capital gain	15%
Insurance premium	10%
Rental of machinery, equipment etc.	15%
Dividend- (a) company	20%
(b) any other person, not being a company	30%
Artist, singer or player	30%
Salary or remuneration	30%
Exploration or drilling in petroleum operations	5.25%
Survey for oil or gas exploration	5.25%
Any service for making connectivity between oil or gas field and its export point	5.25%
Any payments against any services not mentioned above	20%
Any other payments	30%

Note:

1. NBR can issue a certificate upon an application of non-resident to exempt or deduct at a lower rate when it is satisfied that the income of the non-resident would be free of tax or chargeable at a lesser rate than specified.
2. In this section –
 - the specified person means – (i) the Government, or any authority, corporation or body of the Government, including its units, the activities of which are authorized by any Act, Ordinance, Order or instrument having the force of law in Bangladesh; (ii) a project, programme or activity where the Government has any financial or operational

involvement; (iii) a joint venture or a consortium; (iv) a company as defined in clause (20) of section 2 of this Ordinance; (v) a co-operative bank; (vi) a co-operative society; (vii) a financial institution; (viii) a Non-Government Organisation registered with the NGO Affairs Bureau; (ix) a school, a college, an institute or a university; (x) a hospital, a clinic or a diagnostic centre; (xi) a trust or a fund; (xii) a firm; (xiii) a public-private partnership; (xiv) a foreign contractor, a foreign enterprise or an association or a body established outside Bangladesh; and (xv) any artificial juridical person not mentioned above;

- “payment” includes a transfer, a credit or an adjustment of payment;

SELF REVIEW 14 – 2

Specify the rate of tax deducted at sources under each of the following heads:

- | | |
|--------------------------------------------------|---------------------------------------|
| (a) Salaries | (b) Interest on securities |
| (c) Clearing and forwarding agents | (d) Freight forward agency commission |
| (e) Sale of goods or property by public auction. | |

14.5 CONSEQUENCES OF FAILURE TO DEDUCT/COLLECT TAX AT SOURCE [SEC – 57]

(1) Where a person –

- (a) fails to deduct or collect tax at source as required by or under chapter VII of I.T. Ordinance; or
- (b) deducts or collects tax at a lesser rate or in lesser amount; or
- (c) after deducting or collecting tax under this Chapter, fails to pay the same to the credit of the Government, or pays to the credit of the Government an amount lower than the collected or deducted amount;

such person shall be deemed to be an assessee in default, and without prejudice to any other consequences to which such person may be liable, shall be personally liable to pay –

- (i) the amount of tax that has not been deducted or collected; or
- (ii) the amount which was required to be deducted or collected under this Chapter as reduced by the amount that has been actually deducted or collected; or
- (iii) the amount that, after being collected and deducted, has not been paid to the credit of the Government.

(2) In addition to the amount as mentioned in sub-section (1), the person shall also be liable to pay an additional amount at the rate of two percent (2%) per month on the amount as mentioned in sub-clauses (i), (ii) and (iii) of clause (c) of sub-section (1), as the case or cases may be, calculated for the period-

- (i) in the case of failure to deduct or collect, or of the deduction or collection at lower rate or amount, from the due date of the deduction or collection to the date of the payment of the amount, as mentioned in sub-clauses (i) or (ii) of clause (c) of sub-section (1), as the case may be, to the credit of the Government;
- (ii) in the case of failure to deposit the amount deducted or collected, from the date of deduction or collection to the date of payment of the amount, as mentioned in sub-clause (iii) of clause (c) of sub-section (1), to the credit of the Government.

Explanation: The period for which the additional amount is calculated shall not exceed twenty four months.

- (3) The DCT shall take necessary action for the realisation of the amount as mentioned in sub-section (1) and the additional amount as mentioned in sub-section (2) from the person referred to in sub-section (1) after giving the person a reasonable opportunity of being heard.
- (4) No realisation of the amount mentioned in sub-section (1) shall be made if it is established that such amount has meanwhile been paid by the person from whom the deduction or collection was due.

14.6 CERTIFICATE OF DEDUCTION (U/S – 58 & RULE – 18)

Every person who deducts or collects tax shall furnish to the person to or from whom such deduction or collection has been made, a certificate of tax deduction or collection as per the specimen given in **Rule 18** specifying therein –

- (a) The name and the Taxpayer's Identification Number, if any, of the person from whom tax has been deducted or collected;
- (b) The amount of deduction or collection of taxes;
- (c) Section or sections under which tax has been deducted or collected;
- (d) The particulars of the payment of deducted or collected amount to the credit of the Government; and
- (e) Such other particulars as may be prescribed in the specimen form.

The Board may, by notification in the official Gazette-

- (a) specify the cases in which the certificate of tax deduction or collection shall be generated or furnished electronically or in any other machine readable or computer readable media
- (b) specify the manner in which such electronic, machine readable or computer readable certificate shall be generated or furnished.

Consequences of the issuance of certificate of tax deduction or collection without actual deduction, collection or payment [Sec – 57A]:

- (1) Where a person issues a certificate of deduction or collection of tax at source without actual deduction or collection or payment to the credit of the Government, without prejudice to any other consequences to which he may be liable, the person shall be personally liable to pay the amount not being deducted, collected or paid to the credit of the Government.
- (2) The Deputy Commissioner of Taxes shall take necessary action for the collection of amount mentioned in sub-section (1) from the person so personally liable after giving the person a reasonable opportunity of being heard.

14.7 PAYMENT TO GOVERNMENT OF TAX DEDUCTED (U/S – 59 AND RULE - 13)

All sums deducted or collected at source have to be deposited to the national exchequer within the prescribed time specified in **Rule 13** by the person making the deduction or collection to the credit of the Government or as the Board may direct:

In case of deduction or collection made in any:	Date of payment to the credit of the Government
(a) month from July to May of a year	within two weeks from the end of the month in which the deduction or collection was made
(b) day from June 01 to June 20 of a year	within seven days from the date in which the deduction or collection was made
(c) other dates of the month of June of a year	The next following day in which the deduction or collection was made

Provided that where the deduction or collection was made in the last two working days of the month of June of a year, the payment shall be made to the credit of the Government on the same day on which the deduction or collection was made.

14.8 MANNER OF PAYMENT OF TDS (RULE - 14)

The person responsible for making deduction or collection of tax under Chapter VII of the Ordinance shall pay the amount of tax so deducted or collected to the credit of the Government within the time specified in rule 13 by-

- (a) remitting it through an income tax challan into the Bangladesh Bank or the Sonali Bank, as the case may be; or
- (b) transferring the amount electronically in the manner as specified by the Board;

The Board may, by notification in the official Gazette, specify the manner in which the tax deducted or collected at source shall be paid or be electronically transferred to the credit of the Government.

14.9 MINIMUM TAX (U/S - 82C)

According to Section - 16BBB, where under the provisions of this Ordinance any minimum tax is to be charged, it shall be charged, levied, paid and collected accordingly. Notwithstanding anything contained in any other provisions of this Ordinance, minimum tax shall be payable by an assessee in accordance with the provisions of section 82C of the ITO, 1984. The provisions are:

14.9.1 Where minimum tax will be applicable? [Section 82C(2)]

- (1) Any tax deducted or collected at source under the provisions of sections 52, 52A, 52AAA, 52B, 52C, 52D, 52JJ, 52N, 52O, 52R, 53, 53AA, 53B, 53BB, 53BBB, 53BBBB, 53C, 53CCC, 53DDD, 53E, 53EE, 53F, 53FF, 53G, 53GG, 53H, 53M, 53N and 55 shall be the minimum tax on income from the source or sources from which tax has been deducted or collected. Sources of income on which TDS is considered as minimum tax are given below with related section reference:

Sources of Income	Reference
1. Payments on account of execution of contract	52
2. Payment on account of royalties, franchise, or the fee for using license, brand name, patent, invention, formula, process, method, design, pattern, knowhow, copyright, trademark, trade name, literary or musical or artistic composition, survey, study, forecast, estimate, customer list or any other intangibles.	52A
3. Commission of Clearing & Forwarding (C&F) Agents	52AAA
4. Banderole price to Cigarette Manufacturers	52B
5. Compensation against Acquisition of Property	52C
6. Interest on Savings Instruments	52D
7. Travel agent's commission	52JJ
8. Payment to any rental power company on account of purchase of rental power from that company	52N
9. Salaries of foreign technician serving in a diamond cutting industry	52O
10. Payment on account of International Gateway (IGW) Services in respect of international phone call receipt	52R
11. Value of imported goods	53
12. Total freight received or receivable by a ship owned or chartered by a resident assessee	53AA

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13.	Income Derived from Export of Manpower	53B
14.	Export of Certain Items (knit wear and woven garments, terry towel, carton and accessories of garments industry, jute goods, frozen food, vegetables, leather goods, packed food)	53BB
15.	Total value of the shares, debentures, mutual funds, or securities transacted (buy and sell) by a member of stock exchange.	53BBB
16.	Export of any goods except knit wear and woven garments, terry towel, carton and accessories of garments industry, jute goods, frozen food, vegetables, leather goods, packed food)	53BBBB
17.	Public Auction	53C
18.	Courier business of a non-resident	53CCC
19.	Export Cash Subsidy	53DDD
20.	Deduction at source from commission, discount, fees etc.	53E
21.	Commission or Remuneration paid to Agent of Foreign Buyer	53EE
22.	Interest on Savings or Fixed Deposits	53F
23.	Registration Cost through Real Estate or Land Development Business	53FF
24.	Insurance Commission	53G
25.	Remuneration or fees for conducting any survey regarding settlement of claim of insurance	53GG
26.	Transfer of Property	53H
27.	Transfer of securities or mutual fund units by sponsor shareholders of a company etc.	53M
28.	Transfer of share of Stock Exchange	53N
29.	Income from winning / lottery	55

Provided that the tax deducted or collected from the following sources shall not be the minimum tax:

- (i) Tax collected under section 52 from the following persons-
 - (a) a contractor of an oil company or a subcontractor to the contractor of an oil company as may be prescribed;
 - (b) an oil marketing company and its dealer or agent excluding petrol pump station;
 - (c) any company engaged in oil refinery;
 - (d) any company engaged in gas transmission or gas distribution;
 - (ii) tax deducted under section 53 from import of goods by an industrial undertaking as raw materials for its own consumption;
 - (iii) tax deducted under section 53F from a source other than the sources mentioned in clause (c) of sub-section (1) and sub-section (2) of that section;
- (2) for the sources of income for which minimum tax is applicable, books of accounts shall be maintained in the regular manner according to the provisions of section 35;
 - (3) income from any source, for which minimum tax is applicable under this sub-section, shall be determined in regular manner and tax shall be calculated by using applicable rate on such income. If the tax so calculated is higher than the minimum tax under clause (a), the higher amount shall be payable on such income. Provided that income shall be determined and tax shall be calculated for certain sources in the manner as specified in the following –

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Sources of income as mentioned in	Amount that will be taken as income	Rate or amount of tax
Section 52C	amount of compensation as mentioned in section 52C	as mentioned in section 52C (2% or 1% as the case may be)
Section 52D	amount of interest as mentioned in section 52D	as mentioned in section 52D (5% as the case may be)
Section 53DDD	amount of export cash subsidy as mentioned in section 53DDD	as mentioned in section 53DDD (3% as the case may be)
Section 53F(1)(c) and (2)	amount of interest as mentioned in section 53F	As mentioned in section 53F (10%, 15% or 5% as the case may be)
Section 53H	Deed value as mentioned in section 53H	As mentioned in section 53H and the rule made thereunder.

- (4) income or loss computed in accordance with clause (d) or the proviso of clause (d) shall not be set off with loss or income, respectively, computed for any regular source.

14.9.2 Assessee having income from regular source in addition to the income from source or sources for which minimum tax is applicable [Section 82C(3)]

Where the assessee has income from regular source in addition to the income from source or sources for which minimum tax is applicable under section 82C(2)-

- (a) regular tax shall be calculated on the income from regular source;
- (b) the tax liability of the assessee shall be the aggregate of the tax as determined under sub-section (2) and the regular tax under clause (a).

14.9.3 Minimum tax for firm or companies [Section 82C(4)]

- (a) every **firm** having gross receipts of more than **taka fifty lakh** or every **company** shall, irrespective of its profits or loss in an assessment year, for any reason whatsoever, including the sustaining of a loss, the setting off of a loss of earlier year or years or the claiming of allowances or deductions (including depreciation) allowed under this Ordinance, be liable to pay minimum tax in respect of an assessment year at the following rate:

Classes of assessee	Rate of minimum tax
Manufacturer of cigarette, bidi, chewing tobacco, smokeless tobacco or any other tobacco products	1% of the gross receipts
Mobile phone operator	0.75% of the gross receipts
Any other cases	0.60% of the gross receipts

Provided that such rate of tax shall be zero point one zero percent (0.10%) of such receipts for an industrial undertaking engaged in manufacturing of goods for the first three income years since commencement of its commercial production.

- (b) where the assessee has an income from any source that is exempted from tax or is subject to a reduced tax rate, the gross receipts from such source or sources shall be shown separately, and the minimum tax under this sub-section shall be calculated in the following manner-

- (i) minimum tax for receipts from sources that are subject to regular tax rate shall be calculated by applying the rate mentioned in clause (a);
- (ii) minimum tax for receipts from sources that enjoys tax exemption or reduced tax rate shall be calculated by applying the rate mentioned in clause (a) as reduced in proportion to the exemption of tax or the reduction of rate of tax;
- (iii) minimum tax under this sub-section shall be the aggregate of the amounts calculated under sub-clauses (i) and (ii).

Explanation - For the purposes of this sub-section, 'gross receipts' means-

- (i) all receipts derived from the sale of goods;
- (ii) all fees or charges for rendering services or giving benefits including commissions or discounts;
- (iii) all receipts derived from any heads of income.

14.9.4 Points to be noted while charging the minimum tax [Section 82C(5-9)]

- (i) Where the provisions of both sub-section (2) and sub-section (4) apply to an assessee, minimum tax payable by the assessee shall be the **higher** of (a) the minimum tax under sub-section (2); or (b) the minimum tax under sub-section (4).
- (ii) Minimum tax under this section shall not be refunded, nor shall be adjusted against refund due for earlier year or years or refund due for the assessment year from any source.
- (iii) Where any surcharge, additional interest, additional amount etc. is payable under provisions of this Ordinance, it shall be payable in addition to the minimum tax.
- (iv) Where the regular tax calculated for any assessment year is higher than the minimum tax under this section, regular tax shall be payable.
- (v) In this section-
 - (a) "regular source" means any source for which minimum tax is not applicable under sub-section (2);
 - (b) "regular tax" means the tax calculated on regular income using the regular manner;
 - (c) "regular tax rate" means the rate of tax, that would be applicable if the tax exemption or the reduced rate were not granted."

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Which of the given income fall under minimum tax liability provisions as per section 82C? Income from: (a) shipping business of resident assessee (b) Salary (c) export of manpower (d) brick manufacturing (e) real estate or land development business (f) winning or lottery.

14.10 BRIEF PROCEDURE OF DEDUCTION/COLLECTIONS OF TAX AT SOURCE

In the following table summery of TDS provisions are given for the convenience of the readers:

No.	Heads	With holding authority	Rate	Chalan in the name of
1.	Salaries [S-50]:	Any person responsible for making such payment.	deduction at average rate	Respective Zone
	Salaries - Government [S-50 (1A)]:	Drawing and Disbursing Officer (DDO)	deduction at average rate	Respective Zone
2.	Discount on the real value of Bangladesh	Any person responsible for making such payment.	maximum rate	LTU

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No.	Heads	With holding authority	Rate	Chalan in the name of
	Bank Bills [S-50 A]			
3.	Interest or profit on securities [51]	Any person responsible for issuing any security	5%	LTU
4.	(a) Execution of contract, other than a contract for providing or rendering a service mentioned in any other section of Chapter VII. (b) Supply of goods; (c) Manufacture, process or conversion; (d) Printing, packaging or binding [S - 52, rule - 16]	Specified person as mentioned in section 52	As prescribed in Rule 16	Zone-2 (Dhaka & Chittagong) & Other districts - Respective zone
5.	royalties, franchise, or the fee for using license, brand name, patent, invention, formula, process, method, design, pattern, knowhow, copyright, trademark, trade name, literary or musical or artistic composition, survey, study, forecast, estimate, customer list or any other intangibles [S - 52A]	Specified person as mentioned in section 52	With TIN: Base amount not exceeding 25 lacs 10%; base amount exceeding 25 lacs 12% No TIN: Tax rate will be 50% higher.	Dhk(Zn-8); Ctg (Zn-2); Others - Resp. Zone
6.	(a) Advisory or consultancy service (b) Professional service, Technical services fee, Technical assistance fee. (excluding professional services by doctors) [Sec 52AA]	Specified person as mentioned in section 52	Rates specified in Section 52AA	Dhk(Zn-8); Ctg (Zn-2); Others - Resp. Zone
	Professional services (by doctor) [section-52AA]	Specified person as mentioned in section 52	Rates specified in Section 52AA	Dhk (Zn-10); Ctg (Zn-2); Others - Resp. Zone

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No.	Heads	With holding authority	Rate	Chalan in the name of
(c)	Catering service	Specified person as mentioned in section 52	Rates specified in Section 52AA	Dhk(Zn-14);
(d)	Cleaning service			Ctg (Zn-2);
(e)	Collection & recovery service			Others - Resp. Zone
(f)	Private security service			
(g)	Manpower supply service			
(h)	Creative media service			
(i)	Public relations service			
(j)	Event management service			
(k)	Training, workshop, etc. organization and management service			
(l)	Media buying agency service			
(m)	Indenting commission			
(n)	Meeting fees, training fees or honorarium			
(o)	Credit rating agency			
(p)	Motor garage or workshop			
(q)	Private container port or dockyard service			
(r)	Shipping agency commission			
(s)	Stevedoring/berth operation commission			
(t)	Transport/carrying service, vehicle rental service			
(u)	Any other service which is not mentioned in Chapter VII, and is not a service provided by any bank, insurance or financial institutions [section-52 AA]			

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No.	Heads	With holding authority	Rate	Chalan in the name of
	Mobile network operator, technical support service provider or service delivery agent engaged in mobile banking operations [section-52AA]	Specified person as mentioned in section 52	Rates specified in Section 52AA	LTU
7.	C & F agency commission [S-52AAA]	Commissioner of customs	10%	Dhk(Zn-15); Ctg (Zn-3); Others - Resp. Zone
8.	Manufacturer of non-mechanical Cigarettes (Bidi) [section 52B]	Any person responsible for selling banderols to a manufacturer of cigarettes. Any person responsible for collecting VAT	10% of the value of the banderols 3% of MRP	Dhk(Zn-10); Ctg (Zn-4); Others - Resp. Zone
9.	Compensation against acquisition of property [Section -52C]	Any person responsible for payment of such compensation	2% of the amount of such compensation against the immovable property if it is situated within City Corporation, Paurashava or Cantonment Board, else rate is 1%.	Dhk(Zn-15); Ctg (Zn-2); Others - Resp. Zone
10.	Interest on saving instruments [S-52D]	Any person responsible for making such payment	5%, but no TDS for a cumulative investment up to Tk. 500,000 on pensioners' savings certificate.	Dhk(Zn-10); Ctg (Zn-4); Others - Resp. Zone
11.	Payment to a beneficiary of Workers' Participation Fund	Any person responsible for making payment from such fund to a beneficiary	5%	All over BD (Except Chittagong) (Zn-3, Dhk); Ctg (Zn-2);
12.	Brick Manufacturer [section 52F]	Any person responsible for issuing any permission or renewal of permission for manufacture of bricks.	Tk. 45,000/- for one section; Tk. 70,000/- for 1.5 section Tk. 90,000/- for two sections; Tk. 150,000/- for automatic brick field.	Dhk(Zn-7); Ctg (Zn-4); Others - Resp. Zone
13.	Commission of letter of credit [section 52I]	Any person responsible for opening letter of credit.	5%	LTU, Dhaka Ctg (Zn-2)
14.	Collection of tax from travel agent [Section 52J]	Any person responsible for paying commission, discount or any benefit for selling air tickets or cargo carriage.	Rates specified in Section 52J	Dhk(Zn-4); Ctg (Zn-2); Others - Resp. Zone
15.	Renewal of trade license by City Corporation	City Corporation or Paurashava.	Rate for each trade license in city corporation: for	Dhk(Zn-3); Ctg (Zn-2);

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No.	Heads	With holding authority	Rate	Chalan in the name of
	poration or Paurashava [S-52K]		Dhaka and Chittagong Tk. 500 and for others Tk. 300 Rate for each trade license in Paurashava: for Paurashava at district headquarter Tk.300 & others Tk.100	Others – Resp. Zone
16.	Freight forward agency commission [section 52M]	Any person responsible for making such payment.	15%	Dhk(Zn-6); Ctg (Zn-3); Others – Resp. Zone
17.	Rental Power Comp-any [section 52N]	Bangladesh Power Development Board during payment to any power generation co. against power purchase.	6%	Dhk(Zn-13); Ctg (Zn-3); Others – Resp. Zone
18.	Foreign technician serving in diamond cutting industries [section 52O]	Employer.	5%	Dhk (Zn-9)
19.	For services from convention hall, conference centre etc. [section 52P]	Any person, being a corporation, body or authority established by or under any law including any company/enterprise owned, controlled or managed by it, or a comp-any registered under the Companies Act, 1994, any NGO registered with N.G.O Affairs Bureau or any university or medical/dental/ engineering college	5%	Dhk(Zn-4); Ctg (Zn-2); Others – Resp. Zone
20.	Tax deduction from resident for any income in connection with any service provided to any foreigner [S-52Q]	Paying or crediting authority (Bank/Financial institution/ Moneygram etc	10%	Dhaka (Zone-11)
21.	Tax deduction from receipts in respect of international phone call [S-52R]	Paying or crediting authority (Bank, IGW etc.)	1.5% when bank receives amount on behalf of IGW 7.5% if IGW pays to ICX, ANS or any other person	Dhaka (Zone-15)
22.	Collection of tax from manufacturer of soft drinks etc. [S-52S]	SPCL or any other person responsible	4% on value of soft drinks as determined for Value Added Tax (VAT) purpose	Gazipur Zone
23.	Any payment in excess of premium paid on life insurance policy [S-52T]	Any person responsible for paying to a resident.	5%, No TDS in case of death of policy holder	LTU

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No.	Heads	With holding authority	Rate	Chalan in the name of
24.	Deduction from payment on account of local L/C [S-52U]	The bank or financial institution	3% for total proceeds exceeding Tk. 500,000	Ctg & Cox-bazar dist- Ctg (Zn-2); all other districts - LTU
25.	Deduction from payment by cellular mobile phone operator [S-52V]	The principal officer of a cellular mobile phone company responsible for making any payment	10%	LTU
26.	Importer [section 53, Rule 17A]	The Commissioner of Customs	5% (general rate), 2% on certain imported goods, and Tk. 800 per ton in case of import of certain items	Dhk(Zn-14); Ctg (Zn-1); Others: Resp. Zone
27.	House property [section 53A]	The Govt./any authority, corporation or body or any co or any banking co or any cooperative bank or any NGO run or supported by any foreign donation or any university or medical college or dental college or eng. college or any college or school or hospital or clinic or diagnostic centre as tenant.	5% of the gross rent	Dhk(Zn-7); Ctg (Zn-2); Others - Resp. Zone
28.	Shipping business of a resident [section 53AA]	Commissioner of Customs or any other authority duly authorized.	5% of total freight received or receivable in or out of Bangladesh. 3% of total freight received or receivable from services rendered between two or more foreign countries.	Dhk(Zn-10); Ctg (Zn-4); Others - Resp. Zone
29.	Export of manpower [sec. 53B, rule-17C]	The DG, Bureau of Manpower, Employment & Training.	10%	Dhaka (Zone-4)
30.	Export of Knit-wear and woven garments /terry towel/carton & accessories of garments industry, jute goods, frozen food, vegetables, leather goods, packed food [S - 53BB]	Bank.	0.70% of the total export proceeds of all goods (other than jute goods); for jute goods 0.60%	Dhaka (Zone-4)
31.	Member of Stock Exch. [Sec- 53BBB]	The Chief Executive Officer of stock exchange.	0.05%	Dhk(Zn-7); Ctg (Zn-3)
32.	Export of any goods except the goods mentioned in section 53BB [53BBBB]	Bank.	0.70% of the total export proceeds of all goods (except the goods mentioned in sec - 53BB)	Dhaka (Zone-4)

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No.	Heads	With holding authority	Rate	Chalan in the name of
33.	Goods or property sold by public auction [S 53C & Rule 17D]	Any person making sale.	5% of sale price.	Dhk(Zn-9); Ctg (Zn-4); Others - Resp. Zone
34.	Courier business of a non-resident [Section 53CCC]	Any company working as local agent of a non-resident courier company	15% on the amount of service charge	Dhaka (Zone-11)
35.	Payment to actors and actresses or purchase of film drama, any kind of television or radio program [Sce-53D]	The person responsible for making payment.	(1) 10% on the payment in case of purchase of film, drama, any kind of TV or radio program (2) 10% on the payment to actor/actress where total payment is > Tk. 10,000.	Dhaka (Zone-12)
36.	TDS from export cash subsidy [S 53DDD]	Any person responsible for paying export cash subsidy.	3%	Dhaka (Zone-4)
37.	Commission, discount or fees [section 53E(1, 2)]	Any person being a corporation, body including a company making such payment.	10%	Dhk(Zn-12); Ctg (Zn-4); Others - Resp. Zone
38.	Commission, discount or fees [section 53E(3)]	Any company other than oil marketing company	Rates specified in section 53E(2)	Dhk(Zn-12); Ctg (Zn-4); Others - Resp. Zone
39.	Commission or remuneration paid to agent of foreign buyer [section 53EE]	Bank.	10%	Dhk(Zn-6); Ctg (Zn-3); Others - Resp. Zone
40.	Interest on saving deposits and fixed deposits [section 53F(1)]	Any person responsible for making such payment.	10% where account holder furnishes TIN 15% where account holder fails to furnish TIN (but if the savings deposit balance doesn't exceed Tk. 100,000 at any time in the year the rate is 10%) 10% where account holder is a public university, educational institution with MPO teachers, Professional body run by ICAB, ICMAB (not apply on the amount of interest or share of profit arising out of any DPS sponsored by the government or by a schedule bank with prior approval of the Govern.)	Dhaka (Zone-1)

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No.	Heads	With holding authority	Rate	Chalan in the name of
	Interest on saving deposits and fixed deposits or any term deposits in the name of a fund [section 53F(2)]	Any person responsible for making such payment.	5%	Dhaka (Zone-1)
41.	Real estate or land development business [section 53FF]	Any person responsible for registering any document for transfer or any land or building or apartment.	<p>(i) Tk. 1,600 per square meter for building or apartment for residential purpose situated at Gulshan Model Town, Banani, Bari-dhara, Motijeel C/A & dilk-usa C/A of Dhaka and Tk. 6,500 per sq meter building for commercial purpose. Tk. 1500 per sq meter for residential building situated at DOHS, Dhanmondi R/A, Lalmatia Housing Society, Uttara Model Town, Bashundhara R/A, Dhaka Cantonment Area, Karwan Bazar C/A of Dhaka and Khulshi R/A, Panchlaish R/A and Agrabad of Chittagong; and Tk. 5,000 per sq meter building used for commercial purpose.</p> <p>(ii) Tk. 1000 per square meter for residential building or apartment if it is situated in areas within Dhaka North & South, Chittagong city corp.; Tk. 700 for any other city corp.; and Tk. 300 for any other area and Tk. 1,600 per sq meter for commercial building</p> <p>5% of deed value in case of property situated in Dhaka, Narayanganj, Mun-shiganj, Manikganj, Narsi-ngdi, Gazipur, and Chitta-gong districts.</p> <p>3% of deed value for any other district.</p>	Dhk(Zn-5); Ctg (Zn-4); Others - Resp. Zone

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No.	Heads	With holding authority	Rate	Chalan in the name of
42.	Insurance commission [section 53G]	Person responsible for paying such commission to a resident.	5%	LTU
43.	Fees of surveyors of general insurance company [Sec. 53GG]	Any person responsible for paying such fees to resident	15%	LTU
44.	Transfer of property [section 53H]	Any person responsible for registering any document of a person.	Tk. 10,80,000 per katha for land, Tk. 600 per square meter for any structure, building, flat, apartment or floor space on the land, if any or 4% of the deed value, whichever is higher. (Details: Rule 17II)	Dhk(Central Survey Zone); Ctg (Zn-4); Others - Resp. Zone
45.	Collection of tax from lease of property [Section 53HH]	Any registering officer responsible for registering	4% of the lease amount	Dhk(Central Survey Zone); Ctg (Zn-4); Others - Resp. Zone
46.	Interest on deposit of post office saving bank account[sec 53I]	Any person responsible for making such payment.	10% (not applied if the total amount of interest is paid to such payee or class of payees as specified by the Board)	Dhk(Zn-9); Ctg (Zn-4); Others - Resp. Zone
47.	Rental value of vacant land or plant or machinery [section 53J]	The Government or any authority, corporation or body including its units, the activities or any NGO, any university or medical/dental/engineering college responsible for making such payment.	5% of the rent	Dhk(Zn-15); Ctg (Zn-4); Others - Resp. Zone
48.	Advertisement of newspaper or magazine or private television channel or private radio station or any web site or any person on account of advertisement or purchasing airtime of private television channel or radio station or such website [section 53K]	The Government or any other authority, corporation or body or any company or any banking company or any insurance company or any cooperative bank or any NGO or any university or medical/ dental/engineering college responsible for making such payment.	4%.	Dhk(Zn-5); Ctg (Zn-3); Others - Resp. Zone
49.	Tax from transfer of shares by the sponsor or shareholders of a company listed on stock exchange [Sec 53M]	Securities & Exchange Commission or Stock Exchange	5%	Dhk (Zn-3); Ctg (Zn-3)

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No.	Heads	With holding authority	Rate	Chalan in the name of
50.	Collection of tax from transfer of share of shareholder of stock exchanges [S-53N]	The principal officer of a stock exchange	15% on any profits and gains arising from transfer	Dhk (Zn-3); Ctg (Zn-3)
51.	Deduction of tax from any sum paid by the real estate developer to land owner [S-53P]	Real estate developer	15% of any payment made to land owner	Dhk(Zn-5); Ctg (Zn-2); Others – Resp. Zone
52.	Dividends [section 54]	The principal officer of a company.	Resident/non-resident Bangladeshi company: 20%; Resident/non-resident Bangladeshi person other than company - 10% for having TIN & 15% for not having TIN;	Dhk(Zn-13); Ctg (Zn-4); Others – Resp. Zone
53.	Income from lottery [section 55]	Any person responsible for making such payment.	20%	Dhk(Zn-9); Ctg (Zn-3); Others – Resp. Zone
54.	Income of non residents specified in section 56[section 56]	Any person responsible for making such payment.	Specified rates as prescribed in Section 56	Dhaka (Zone-11)
	Any other income of non-residents not specified in section 56	Any person responsible for making such payment.	30%	Central Survey Zone
57.	Private motor vehicle advance tax [Section – 68B]	BRTA	Rate specified in section 68B	Central Survey Zone
58.	Motor vehicle presumptive tax (SRO 160/2014)	BRTA	Rate specified in SRO No. 160/2014	Central Survey Zone
59.	Cargo/Launch presumptive tax (SRO 162/2014)	BRTA	Rate specified in SRO No. 162/2014	Dhk(Zn-5); Ctg (Zn-3); Others – Resp. Zone

Illustration 14 – 1:

Biki (Bangladesh) Company Limited is engaged in trading business of consumable goods. During the income year ended on June 30, 2017, the company procured goods for commercial purposes from both home and abroad.

On July 2016:

purchased (home) Tk. 3,000,000 and imported at C & F value \$500,000.

On October 2016:

purchased (home) Tk. 4,000,000 and imported at C & F value \$400,000.

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Other data:

- ❖ Rate of exchange on July and October was \$1 = Tk. 60 and \$1 = Tk. 70 respectively.
- ❖ Assume that import duty @ 20% and supplementary duty @ 25% was paid at import stage.
- ❖ VAT and advance income tax (AIT) was also imposed at applicable rates at import stage.
- ❖ Custom's assessed value for goods imported in July 2016 and October 2016 was USD 550,000 and USD 440,000 respectively.
- ❖ All of the imported goods were sold to one special customer.

Goods purchased locally were sold to five different customers – A, B, C, D and E as follows:

	<u>A (Tk.)</u>	<u>B (Tk.)</u>	<u>C (Tk.)</u>	<u>D (Tk.)</u>	<u>E (Tk.)</u>
July 10, 2016	200,000	150,000	300,000	500,000	1,400,000
October 24, 2016	400,000	100,000	300,000	700,000	500,000
November 28, 2016	<u>500,000</u>	<u>200,000</u>	<u>400,000</u>	<u>400,000</u>	<u>700,000</u>
Total	<u>1,100,000</u>	<u>450,000</u>	<u>1,000,000</u>	<u>1,600,000</u>	<u>2,600,000</u>

From the above you are required to

(i) Calculate following items borne by Biki (Bangladesh) Company Limited at import stage.

- ❖ advance income tax (AIT),
- ❖ supplementary duty (SD) and
- ❖ value added tax (VAT)

(ii) Calculate advance income tax deducted at source by each customer.

(ICAB adapted)

Solution 14 – 1:

Requirement (i):

Computation of AIT, SD and VAT

	<u>Amount in USD</u>	<u>Exchange Rate</u>		<u>Amount in BDT</u>
Import value (as assessed by customs)				
July 2016	550,000	60		33,000,000
October 2016	440,000	70		30,800,000
Assessable value in BDT as per customs				63,800,000
Add: 1% insurance (CIF value is needed as base)				638,000
Assessable Value				64,438,000
Add: Import Duty @ 20%				12,887,600
Base value for Supplementary Duty				77,325,600
Add: Supplementary Duty @ 25%				19,331,400
Base Value for VAT				96,657,000
VAT @ 15%				14,498,550
				111,155,550
AIT @ 5% on assessable value				32,21,900
				114,377,450

Requirement (ii):

Computation of AIT deducted at source by customers (U/s - 52 & Rule - 16)

Customers	Sales (BDT)	Applicable Rate	AIT (BDT)
(1)	(2)	(3)	(4) = 2 × 3
A	1,100,000	3%	33,000
B	450,000	1%	4,500
C	1,000,000	2%	20,000
D	1,600,000	3%	48,000
E	2,600,000	4%	104,000
Total	6,750,000		209,500

Note: Accumulation is not made as sales were made to five different customers.

KEY POINTS

1. In some specific areas, the paying authority is required to deduct tax at source before the income reaches to the assessee and hence the tax deducting authority is working as an agent of the government.
2. TDS is an advance payment of tax in terms of the assessee who will deduct this amount from his total tax liability at the year-end.
3. If the employer fails to deduct tax from the salary at the time of making the payment, he cannot charge it as allowable deduction.
4. No tax shall be deducted at source where the savings instrument is purchased by an approved superannuation fund or pension fund or gratuity fund or a recognized provident fund, or a workers' profit participation fund.
5. The Director General, Bureau of Manpower, Employment and Training shall collect from the concerned exporter as advance tax on income on account of manpower export at the rate of 10% of the service charge or fees.
6. Tax is collected the Chief Executive Officer at the rate of 0.05% on the total value of the shares, debentures, mutual funds, bonds or securities transacted (buy and sell) by a member of stock exchange.
7. For resident individual assessee TDS rate is 10% on dividend if he has TIN.
8. The person responsible for paying any amount on account of winnings of lottery shall, at the time of making such payment, deduct tax at the rate of 20%.
9. If a person fails to deduct taxes at sources who is empowered to do so or if he fails to deposit the deducted amount to the exchequer within the prescribed time, he would be treated as an assessee in default and would be personally liable for the non-payment.
10. The deducting authority shall deposit the tax deducted at source as per the provision of Rule 13.

Chapter - 14: Tax Deducted at Source

Multiple choice questions:

1. In which of the following cases, the tax deducting authority issues account payee check to the assessee to deposit the amount of tax deducted to the exchequer?—
 - (a) Salary
 - (b) Interest on Securities
 - (c) House Property
 - (d) Insurance Commission
2. When the tax deducting authority is required to deposit the sum deducted as TDS into the national exchequer in case of deduction or collection made in the month of September? –
 - (a) Within 3 week
 - (b) Within 1 month
 - (c) Within 2 week
 - (d) In 4 equal installments
3. What is the consequence of failure to deduct tax or failure to deposit the money to the government treasury within the specified time? –
 - (a) No consequences
 - (b) Payment of due tax
 - (c) Payment of due tax with a penalty of 2% interest for the period in default
 - (d) Giving penalty of 2% only
4. If the insurance commission amounts to taka 60,000, how much will be deducted as tax at source? –
 - (a) Nil
 - (b) Tk. 1,500
 - (c) Tk. 1,800
 - (d) Tk. 3,000
5. What is the amount of tax for a brick manufacturer having one section brickfield? –
 - (a) Nil
 - (b) Tk. 45,000
 - (c) Tk. 30,000
 - (d) Tk. 60,000
6. Which of the following source of income does not qualify for TDS –
 - (a) Income from Salary
 - (b) Income form Interest on Security
 - (c) Income from House Property
 - (d) Income from Agriculture
7. What is the rate of TDS for interest on security –
 - (a) 5%
 - (b) 10%
 - (c) 15%
 - (d) 20%
8. What is the rate of TDS for any payment made to a contractor that exceeds Tk. 25,00,000 –
 - (a) Nil
 - (b) 2.5%
 - (c) 4%
 - (d) None of the above

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9. What is the rate of TDS for house property –
- Nil
 - 2.5%
 - 4%
 - 5%
10. Which of the following case does not fall under the provision of minimum tax liability –
- Deductions from salary
 - Deductions from the contractors or sub-contractors and suppliers
 - Collection of tax from member of stock exchange
 - Deduction from insurance commission

Identify the following statements as True (T) or False (F):

- For advisory or consultancy service where base amount does not exceed Tk. 25 lakh, the rate of TDS is 10%.
- For manufacture of cigarettes TDS rate is 6% of banderols value.
- The deduction from shipping business shall be treated as minimum tax liability.
- TDS is not applicable on the remuneration of actors or actresses.
- No TDS is applicable on prize money of a lottery.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 14 – 1:** What do you mean by tax deducted at source (TDS)? Is there any difference between tax deducted at source (TDS) and withholding tax (WT)?
- Question 14 – 2:** “TDS is no good for both the government and the assessee” – do you agree? Explain.
- Question 14 – 3:** What are the incomes subject to deduction at source as per section 49?
- Question 14 – 4:** What are the consequences of failure to deduct tax or failure to deposit tax timely?
- Question 14 – 5:** Who is required to issue certificate of deduction and when?
- Question 14 – 6:** Who is required to deposit the amount of tax collected at source to the government treasury? Also discuss the exception to this rule (Rule - 14), if any.
- Question 14 – 7:** What do you understand by minimum tax liability? Discuss in the light of section 82C of I.T. Ordinance, 1984.
- Question 14 – 8:** Write short note on:
- Income subject to TDS
 - Section 52 and Rule – 16
 - TDS on transfer of property
 - Minimum tax liability

Problem 14 – 1:

Assume that Mr. X expects to receive the following income from his employer as per the terms of employment that he should report under the head “income from salaries” during the year ending on June 30, 2017.

- Basic salary- tk. 30000 p. m.
- Dearness allowance – 15% of basic salary.

- (c) Bonus – 2 months' basic salary.
- (d) House rent allowance –tk. 18000 p.m.
- (e) Medical expense reimbursed – tk. 18000 for the year.
- (f) Employer's contribution to recognized provident fund – 10% of basic salary (own subscription is also same).
- (g) Interest accrued on accumulated balance of recognized provident fund – tk. 7200 @ 18%.

Also assume that he will not claim credit for investment. Compute the average tax rate for Mr. X to deduct tax at sources from his salary income.

Problem 14 – 2:

Assume that XYZ Co. Ltd. have had the following payments to its single supplier for supply of goods:

First installment	on 1 st July, 2016	taka 100,000
Second installment	on 1 st October, 2016	taka 400,000
Third installment	on 1 st January, 2017	taka 500,000
Fourth installment	on 1 st April, 2017	taka 700,000
Fifth installment	on 1 st July, 2017	taka 300,000
Final installment	on 1 st October, 2017	taka 700,000

Compute the amount of TDS in the respective income years.

Problem 14 – 3:

Trade International Limited is engaged in trading business of consumable goods. During the income year ended on June 30, 2017, the company procured goods for commercial purposes from both home and abroad: On July 2016: purchased (home) Tk. 2,000,000 and imported at C & F value C\$500,000. On October 2016: purchased (home) Tk. 3,000,000 and imported at C & F value C\$400,000. Rate of exchange on July and October was C\$1 = Tk. 60 and C\$1 = Tk. 70 respectively. Assume that import duty @ 20% and supplementary duty @ 40% was paid at import stage. VAT and advance income tax (AIT) was also imposed at applicable rates at import stage. Custom's assessed value for goods imported in July 2016 and October 2016 was C\$ 600,000 and C\$ 500,000 respectively. All of the imported goods were sold to one special customer. But goods purchased locally were sold to five different customers – A, B, C, D and E as follows:

Date	Sales to Customer (in BDT)				
	A	B	C	D	E
July 10, 2015	200,000	150,000	300,000	80,000	400,000
October 24, 2015	400,000	400,000	300,000	700,000	500,000
November 28, 2015	500,000	500,000	400,000	400,000	400,000
Total	1,100,000	1,050,000	1,000,000	1,180,000	1,300,000

From the above you are required to –

- (a) Calculate advance income tax (AIT), supplementary duty (SD) and value added tax (VAT) suffered by Trade International Limited at import stage.
- (b) Calculate advance income tax deducted at source by each customer.

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Answers:

Multiple choice questions		True/False
1. c	6. d	1. T
2. c	7. a	2. F
3. c	8. c	3. T
4. d	9. d	4. F
5. b	10. a	5. F

Self review 14 - 1:

- a. TDS is the abbreviation of Tax Deducted at Sources that means at the time of payment of any money by one assessee to another, the paying authority will act as an agent of the government and deduct tax at the rates as specified to deposit the same to the government.
- b. The paying authority will deduct tax from the assessee to whom such income will be flowed and will be taxable in his hand.
- c. It is advantageous to both the government and the assessee.

Self review 14 - 2:

SL	Heads	Rates
(a)	Salaries	Average rate
(b)	Interest on securities	5%
(c)	Clearing and forwarding agents	10%
(d)	Freight forward agency commission	15%
(e)	Sale of goods or property by public auction	5%

Self review 14 - 3:

SL	Income heads	Yes or No
(a)	Income from shipping business of resident assessee	Yes
(b)	Salary income	No
(c)	Export of manpower	Yes
(d)	Income of brick manufacturers	No
(e)	Income from real estate or land development business	Yes
(f)	Income from winning or lottery	Yes

CHAPTER - 15

ADVANCE INCOME TAX

LEARNING OBJECTIVES

After studying Chapter 15, you shall be able to understand:

- ⊕ the concept of advance income tax
- ⊕ computation of advance income tax
- ⊕ payment of advance income tax
- ⊕ consequence of payment of advance income tax
- ⊕ consequence of failure to pay advance income tax
- ⊕ payment of tax on the basis of return
- ⊕ advance income tax matrix

Income Tax discipline lies on the basic principle that tax will be paid on income. So, it is customary that as an assessee, I have to earn first and only then I will be eligible to pay tax. So, income (difference between revenue and expenses) of an income year is assessed in the assessment year to calculate the taxable income on which tax is supposed to be paid. And that's why government needs to wait at least a year for taxing people. But, in almost every country of the world, law provides payment of tax within the year in installments. In taxation classic it is known as "PAYE" (pay as you earn). Otherwise, government will have to face a lot of problem to continue with its fiscal mechanism.

On the other hand, assessee will also face problems to pay huge amount of tax at a time after spending all of his income. Because, once income generates to the hand of the assessee, it becomes disposable and government has no mechanism to motivate the people to save for the government. Thus, due to advance payment of tax, government realizes time value of money and assessee realizes flexibility. The benefits of AIT are mostly covered in the chapter "Tax Deducted at Sources." For the deducting authority, it is tax collected or deducted at source, but for the assessee, from whose income such tax is deducted, it is advance payment of tax. Sections 64 to 73 of Income Tax Ordinance 1984 deal with advance payment of taxes.

15.1 WHO IS LIABLE TO PAY ADVANCE TAX?

Both old and new taxpayers may be liable to pay advance tax upon the fulfillment of the following conditions:

15.1.1 For old taxpayer (U/s - 64): If the total income, excluding capital gain and agricultural income, of the assessee for the latest assessed income in respect of which he has been assessed by way of regular assessment (U/s - 83), or has been provisionally assessed (U/s - 81), exceeds taka 400,000.

Explanation: Latest assessed income needs more clarification. Let us suppose that Mr. X wants to determine the latest assessed as a base of advance tax for the assessment year 2017-18. His study of various assessment done on previous years reveal that income of 2016-17 is not assessed yet, income of 2015-16 has been assessed on 31st march 2017 and income of 2014-15 has been reassessed on 28 May 2017 due to appeal. In such a case, latest assessed income for Mr. X will be that of 2014-15 for calculating advance tax.

already paid taka 100,000 in two installments: one on 15th September and another one on 15th December. As on 10th of March, the assessment for the income year 2016-17 has been completed, the very definition of latest assessed income changes. Now, Mr. X has to reassess his advance tax liability as per the new assessment and he has to pay the remaining amount in two equal installments.

Total advance tax payable on newly assessed income (40% on 800,000)	Tk. 320,000
Advance tax already paid	<u>Tk. 100,000</u>
Remaining advance tax to be paid	Tk. 220,000
Advance tax to be paid in each installment (taka 220,000/2)	Tk. 110,000

Note: In this case, Mr. X needs to revise the amount of advance tax payable on the basis of the newly assessed income as assessment was completed before 15th of May and divided into two installments as still two installments were left.

SELF REVIEW 15 - 2

(a) In how many installments, AIT is paid? (b) What are the dates of AIT payment? (c) What is the base for calculation of AIT? (d) When the base for calculation of AIT is changed?

15.4 CONSEQUENCES OF PAYMENT OF ADVANCE TAX

Any sum, other than a penalty or interest, paid by or recovered from an assessee as advance tax, shall be treated as a payment of tax in respect of the income of the period, which would be the income year and shall be given credit for in the assessment of tax payable by the assessee. But, if the payment made is more or less than the actual amount, a question of interest arises from both sides as follows:

15.4.1 Interest payable by government: If the amount of advance tax paid is in excess of the amount of tax payable as determined on regular assessment, the Government shall pay simple interest at 10% per annum on such excess payment. Interest will be paid for the period from 1st July of the year of assessment to the date of regular assessment in respect of the income of that year or a period of two years from the said 1st July, whichever is shorter (U/s - 72). Government will only pay interest on excess amount if such excess generates for the payment of advance tax on the basis of latest assessed income not on the basis of the assessee's own estimate.

Illustration: Mr. X calculated advance tax for the income year 2016-17 as per the latest assessed income of taka 800,000. Regular assessment for the assessment year 2017-18 was completed on June 30, 2018 and income assessed amounts to taka 500,000. Applicable tax rate is 40%. Calculate interest payable by the government on excess amount.

Calculation of excess advance tax paid:

Amount of advance tax paid on the basis of latest assessed income (40% of taka 800,000)	Tk. 320,000
Advance tax as per regular assessment (40% of taka 500,000)	<u>Tk. 200,000</u>
Excess of advance tax paid	<u>Tk. 120,000</u>
Interest payable by the government (10% on taka 120,000)	Tk. 12,000

Note: Interest will be paid for a period of 1 year from 1st July 2016 to the date of regular assessment of 30th June 2017.

15.4.2 Interest payable by the assessee: Where, in any financial year, an assessee has paid advance tax on the basis of his own estimate and the advance tax so paid together with the tax deducted at source, if any, is less than 75% of the amount of tax payable by him as

determined on regular assessment, the assessee shall pay, in addition to the balance of tax payable by him, simple interest at 10% per annum on the amount by which the tax so paid and deducted falls short of the 75% of the assessed tax. Provided that the rate of interest shall be 50% higher if the return is not filed on or before the Tax Day. The period for calculation of simple interest shall be the period from the 1st July of the year in which the advance tax was paid to the date of regular assessment in respect of the income of that year or a period of two years from the said 1st July, whichever is shorter [U/s – 73(1) and (2)].

Illustration: For the assessment year 2017-18, a certain assessee has latest assessed income of taka 1,000,000. But, he wants to pay advance tax for the year on the basis of his own estimates that amounts to taka 800,000. Regular tax rate is 40%. During the year, tax deducted at source was taka 50,000. Regular assessment for the assessment year 2017-18 was completed on February 28, 2017 resulting taka 1,200,000 profit including profit of taka 80,000 from capital gain and taka 220,000 from agricultural income. Amount of excess or shortfall will be: Income eligible to apply advance tax as per regular assessment is taka 900,000 (Tk. 1,200,000 – Tk. 80,000 – Tk. 220,000), excluding capital gain and agricultural income.

Tax liability as per regular assessment (40% of taka 900,000)		Tk. 360,000
Tax paid in the form of tax deducted at sources	Tk. 50,000	
Advance tax (40% of taka 800,000 – taka 50,000)	<u>Tk. 270,000</u>	Tk. <u>320,000</u>
Shortfall/Deficit		Tk. 40,000
<i>75% test: The deficit or shortfall is required to be tested for charging interest.</i>		
75% of tax liability as per regular assessment (75% of taka 360,000)		Tk. 270,000
Tax paid actually		Tk. <u>320,000</u>
Shortfall/Deficit		nil

Consequence: In this case, the assessee is required to pay the shortfall of taka 40,000. There is no question of interest resulting from 75% test.

Notwithstanding anything contained in Section 73(1) & 73(2), where-

- (a) tax is paid under section 74 (on the basis of return), or
- (b) provisional assessment has made u/s 81 but regular assessment has not been made,

The simple interest shall be calculated in accordance with the following provisions-

- (i) up to the date on which tax u/s 74 or as provisionally assessed, was paid;
- (ii) thereafter, such simple interest shall be calculated on the amount by which the tax as so paid falls short of the said 75% of the assessed tax. But, if the interest amount is reduced as a result of appeal, revision or reference, the excess interest paid, if any, shall be refunded together with the amount of tax that is refundable [Sec 73(3) & (4)]

15.5 CONSEQUENCES OF FAILURE TO PAY ADVANCE TAX:

Where, an assessee who is required to pay advance tax fails to pay any installment of such tax on the due date, he shall be deemed to be an assessee in default in respect of such installment (U/s - 69). Where, it is found that advance tax has not been paid accordingly, there shall be added to the tax as determined on the basis of regular assessment, simple interest thereon calculated at the rate of 10% and for the period from the 1st July of the year in which the advance tax was paid to the date of regular assessment in respect of the income of that year or a period of two years from the said 1st July, whichever is shorter.

15.6 PAYMENT OF TAX ON THE BASIS OF RETURN (U/S - 74):

Every person who is required to file a return under section 75, 77, 78, 89(2), 91(3) or 93(1) shall, on or before the date on which he files the return, pay the amount of the tax payable by him on the

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basis of such return, or as per provision of section 82C(4), whichever is higher, as reduced by the amount of any tax deducted from his income or paid by him in accordance with the relevant provisions. The amount such paid shall be deemed to have been paid towards the sum as may be determined to be payable by him after regular assessment. But, the person who fails to pay such tax on such date without reasonable cause shall be deemed to be an assessee in default.

15.7 ADVANCE TAX MATRIX:

The advance tax matrix is divided into two categories as per the overall discussion: one is for old taxpayer and another is for new taxpayer.

Old Tax Payer	Does latest assessed income exceed Tk. 400,000?	Yes	Advance tax Payable	Advance tax + TDS \geq 75% of tax determined	No simple interest payable
		No	Advance tax not Payable	Advance tax + TDS < 75% of tax determined	Simple interest payable
New Tax Payer	Does total assessed income exceed Tk. 400,000?	Yes	Advance tax Payable	Advance tax + TDS \geq 75% of tax due	No simple interest payable
		No	No advance tax due or simple interest payable	Advance tax + TDS < 75% of tax determined	Simple interest payable

Illustration 15 – 1:

Mr. Rahman has the following records of assessment for various years:

Income years	Date of assessment	Total assessed income
2011-12	21 st of February, 2013	Tk. 600,000
2012-13	10 th of March, 2016	1,500,000
2013-14	30 th of May, 2015	1,200,000
2014-15	15 th of February 2016	1,250,000
2015-16	Not yet assessed	N/A

Mr. Rahman, due to the changes of nature of income, wants to pay advance tax on the basis of his own estimate in lieu of latest assessed income. According to his own estimate, total taxable income amounts to Tk. 1,000,000 including Tk. 100,000 from capital gain. He has no income from agriculture. Assessment for the income year 2014-16 has been completed on 28.02.17 and his actual income amounts to taka 1,800,000 excluding capital gain and agricultural income. For the income year 2014-15, his tax deducted at source was Tk. 100,000 and he has paid further tax of Tk. 150,000 on 31.12.16 under section 74. Applicable tax rate for Mr. Rahman is 40%. Explain tax implications.

Solution 15 – 1:

Latest assessed income in this case would be taka 1,500,000 (IY 2012-13) if advance tax was based on that. But, Mr. Rahman paid advance tax on the basis of his own estimate. So, let us first compute the amount of advance tax paid: Estimated income of Mr. Rahman excluding capital gain Tk. 900,000; Amount of advance tax payable (40% of taka 900,000) Tk. 360,000; Advance Income Tax to be paid per installment (taka 360,000 ÷ 4) Tk. 90,000; Advance tax paid by Mr. Rahman on the date of assessment Tk. 180,000 (Because only two installments are made on 15th September and 15th December respectively).

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Let us calculate the amount of shortfall/deficit: Tax liability as per regular assessment (40% of Tk. 1,800,000) Tk. 720,000; Tax paid (TDS Tk. 100,000 + Advance Tk. 180,000) Tk. 280,000; Shortfall/deficit Tk. 440,000. As tax paid u/s 74 is Tk. 150,000, Remaining Liability will Tk. 290,000. So, Mr. Rahman would be required to pay Tk. 290,000 as additional tax. Now let us use 75% test to decide whether he would be charged interest on the shortfall or not: 75% of tax liability as per regular assessment (75% of Tk. 720,000) Tk. 540,000 and actual tax paid is Tk. 280,000, so, Revised Shortfall/Deficit Tk. 260,000. As tax paid u/s 74 is Tk. 150,000, Remaining Liability will be Tk. 110,000. So, Mr. Rahman would be charged interest as per the 75% test for the following time period: On Tk. 110,000; interest will be charged @ 10% for a period from 1st April 2016 to 28th February 2017 whereas on Tk. 150,000; interest will be charged at the same rate but for a period from 1st April 2015 to 31st December 2015. So, total interest payable by Mr. Rahman would be Tk. 21,333.33 [(110,000 × 10% × 11/12) + (150,000 × 10% × 9/12)].

Thus, total amount due by Mr. Rahman to the government amounts to Tk. 303,083.33 (290,000 + 13,083.33).

Illustration 15 – 2:

Mr. Jalil computed his advance tax for the income year 2015 - 2016 based on latest regular assessment of Tk. 1,200,000 total income including Tk. 50,000 capital gain and Tk. 150,000 agricultural income. He has paid advance tax accordingly @ 25%. Regular assessment for assessment year 2016 – 2017 was completed on August 31, 2018 and total income assessed was Tk. 1,000,000 where the amount of capital gain and agricultural income were Tk. 75,000 and Tk. 125,000 respectively. Tax rate applicable is 25%. Show the relevant calculations for advance tax.

Solution 15 – 2:

Latest assessed income in this case is Tk. 1,000,000 (AY 2016 - 2017) and advance tax was paid based on that. So, let us first compute the amount of advance tax paid.

Estimated income of Mr. Jalil excluding capital gain and agricultural income	Tk. 800,000
Amount of advance tax payable (25% of taka 800,000)	Tk. 200,000
Advance income tax paid (25% of taka 1,000,000)	Tk. 250,000
Excess amount of tax paid by Mr. Jalil	Tk. 50,000

This excess amount of Tk. 50,000 may either be adjusted with the tax liability of the next assessment year or be refunded to him at his option in writing including interest. Mr. Jalil is eligible to receive interest on this excess amount:

Time duration and interest calculation: 2 years and 2 months [1st July of the assessment year 2016-17 to the date of regular assessment i.e. 1st July, 2016 to August 31, 2018] As per Section 72, 10% interest will be allowed on the excess amount of tax paid i.e. Tk. 50,000 for maximum two years. So, the amount of interest will be [Tk. 50,000 × 10% × 2] = Tk. 10,000

Illustration 15 – 3:

Compute the advance tax payable by Mr. Hasan from the following estimated income submitted for the assessment year 2017-18 assuming that he was not previously assessed by way of regular assessment: Income from salary Tk. 320,000; Income from interest on Securities Tk. 50,000; Income from house property Tk. 150,000; Agricultural income Tk. 40,000; Income from business and profession Tk. 70,000; Capital gain Tk. 60,000 and Income from other sources Tk. 130,000. The amount of estimated TDS is Tk. 15,000. What are the consequences of using own estimate in advance tax calculation?

Solution 15 - 3:

Total income excluding capital gain and agricultural income: Tk. 720,000

Calculation of Tax liability:

		Rate	Tk.
On the first	Tk. 250,000	0%	Nil
On the next	400,000	10%	40,000
On the next	<u>70,000</u>	15%	<u>10,500</u>
Total	Tk. 720,000		50,500
Less: Estimated TDS			<u>15,000</u>
Total advance tax payable			<u>35,500</u>

This Tk. 35,500 will be paid on a quarterly basis in equal installments @ Tk. 8,875 on 15th September, 2016; 15th December, 2016; 15th March, 2016 and 15th June 2017 respectively.

As we know, in advance tax payment the assessee has two options; pay advance tax on the basis of the latest assessment and if the tax paid falls short of required amount of advance tax payable, he would not be charged for shortfall. But in the case of shortfall of advance tax paid on the basis of own estimate, he would be charged interest at specified rate i.e. @ 10%.

KEY POINTS

1. Advance tax is payable by an old assessee on the basis of latest provisional or regular assessment but not under S. 93 (income escaping assessment). Income last assessed must be at least Tk. 400,000.
2. Advance tax is based on taxation classic known as "PAYE" (pay as you earn).
3. If the total income, excluding capital gain and agricultural income, of the assessee exceeds Tk. 400,000 he/she is suppose to pay advance income tax.
4. Computation of advance tax payable in case of new tax payers is based on the estimated total income applied at regular rates as reduced by the amount of tax required to be deducted or collected at source
5. Advance tax shall be payable in four equal installments on the 15th day of September, December, March and June of the financial year for which the tax is Payable.
6. If the amount of advance tax paid is in excess of the amount of tax payable as determined on regular assessment, the Government shall pay simple interest at 10% per annum on such excess payment.
7. If an assessee has paid advance tax but paid (including TDS) less than 75% of the amount of tax payable by him as determined on regular assessment the assessee shall pay simple interest at 10% per annum on the amount by which the tax so paid and deducted falls short of the 75% of the assessed tax.
8. If an assessee fails to pay any installment of advance tax on the due date, he shall be deemed to be an assessee in default in respect of such installment.
9. Where, it is found that advance tax has not been paid accordingly simple interest @ 10% will be added with tax liability for the period from the 1st July of the year in which the advance tax was paid to the date of regular assessment in respect of the income of that year or a period of two years from the said 1st July, whichever is shorter.
10. Every person who is required to file a return on regular basis shall pay advance tax.

Multiple choice questions:

1. To determine advance tax latest assessed income excludes –
 - (a) Income from Salary
 - (b) Interest on Securities
 - (c) Income from House Property
 - (d) Agricultural Income
2. When the new taxpayer is required to send his estimate of income and advance tax payable to DCT? –
 - (a) On 15th June
 - (b) On 15th May
 - (c) Before 15th June
 - (d) Before 15th May
3. Advance taxes are paid as per the following schedule –
 - (a) 15th day of September, December, March and June
 - (b) 15th day of August, November, February and May
 - (c) 15th day of July, October, January and April
 - (d) 15th day of June, October and February
4. When interest is payable by the assessee on the shortfall? –
 - (a) When total of advance tax and TDS becomes less than 75% of tax payable on regular assessment.
 - (b) When total of advance tax and TDS becomes more than 75% of tax payable on regular assessment.
 - (c) When advance tax already paid becomes less than 75% of tax payable on regular assessment.
 - (d) When advance tax already paid becomes more than 75% of tax payable on regular assessment.
5. In case of new taxpayer, the computation of advance tax payable is based on –
 - (a) Latest assessed income
 - (b) As per return
 - (c) Estimated income
 - (d) As per assessment
6. What is the minimum amount that must exceed to pay advance tax –
 - (a) Tk. 3,00,000
 - (b) Tk. 4,00,000
 - (c) Tk. 1,50,000
 - (d) Tk. 2,25,000
7. Advance tax is paid in how many equal installments –
 - (a) 4
 - (b) 6
 - (c) 8
 - (d) 10
8. When the assessee fails to pay advance tax or pay less than 75% of tax liability a simple interest will charge at the rate of –
 - (a) Nil
 - (b) 5%
 - (c) 7.5%
 - (d) 10%

9. When the assessee paid advance tax more than the amount of his/her tax liability, government will pay a simple interest at the rate of –
- Nil
 - 5%
 - 7.5%
 - 10%
10. 'PAYE' refers to –
- Pay advance if you eligible
 - Pay as you earn
 - Pay and you earn
 - None of the above

Identify the following statements as True (T) or False (F):

- Both old and new taxpayers may be eligible for advance tax.
- TDS in every case is considered as advance payment of tax.
- If assessment for a year is completed before 15th of June, it will be considered as latest assessed income.
- If the shortfall originates due to the payment of advance tax as per latest assessed income, there will be no interest.
- If advance tax is paid by an old taxpayer on the basis of estimated income, he will not pay any interest on shortfall.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 15 – 1: What do you mean by advance payment of taxes?
- Question 15 – 2: “Due to advance payment of tax, government realizes time value of money and assessee realizes flexibility” – do you agree? Explain.
- Question 15 – 3: “Everybody who generates income shall pay advance tax” – do you agree? Explain.
- Question 15 – 4: How do you compute advance tax for both old and new taxpayers?
- Question 15 – 5: What is the procedure of paying advance tax?
- Question 15 – 6: What are the consequences of non-payment, excess payment and deficit payment of advance tax?
- Question 15 – 7: What do you understand by payment of tax as per return under section 74?
- Question 15 – 8: Write short note on:
- PAYE
 - Advance tax for new taxpayer
 - Consequence of failure to pay advance tax
 - Advance tax matrix

Problem 15 – 1:

The latest assessed income of Mr. Piplu amounts to taka 500,000 (for the income year 2014-15), which is considered as a base of payment of advance tax in the assessment year 2016-17. Meanwhile, the assessment for the income year 2015-16 has been completed in 15th May 2016 and the taxable income for the year amounts to taka 800,000. Now, what should Mr. X do with regard to advance tax? Suppose applicable income tax rate is 40%.

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Problem 15 – 2:

Mr. Mia calculated advance tax for the income year 2014-15 as per the latest assessed income of taka 1,000,000. Regular assessment for the assessment year 2015-16 was completed on June 30, 2017 and profit assessed amounts to taka 700,000. Applicable tax rate is 40%.

Required: Calculate interest payable by the government on excess amount.

Problem 15 – 3:

For the assessment year 2016-17, a certain assessee has latest assessed income of taka 1,200,000. But, he wants to pay advance tax for the year on the basis of his own estimates that amounts to taka 1,000,000. Regular tax rate is 40%.

During the year, tax deducted at source was taka 90,000. Regular assessment for the assessment year 2016-17 was completed on February 28, 2017 resulting taxable income of taka 1,200,000 excluding income from capital gain and agricultural income.

Required: Calculate the amount of excess or shortfall and explain the consequences for the same.

Problem 15 – 4:

Mrs. Krishna has the following records of assessment for various years:

Income years	Date of assessment	Total assessed income
2011-12	18 th March, 2013	Taka 1,000,000
2012-13	25 th February, 2016	Taka 1,200,000
2013-14	28 th April, 2015	Taka 900,000
2014-15	20 th May, 2016	Taka 1,150,000
2015-16	Not yet assessed	N/A

Mrs. Krishna, due to the changes of nature of income, wants to pay advance tax on the basis of her own estimate in lieu of latest assessed income. According to her own estimate, total taxable income amounts to taka 1,000,000 excluding capital gain and agricultural income.

Assessment for the income year 2015-16 has been completed on 16th March 2017 and her actual income amounts to taka 1,900,000 including capital gain of taka 100,000 and agricultural income of taka 80,000. For the income year 2015-16, her tax deducted at source was taka 110,000 and she has paid further tax of taka 120,000 on 31st December 2016 U/s – 74. Applicable tax rate for Mrs. Krishna is 40%.

Required: Explain tax implications.

Answers:

Multiple choice questions		True/False
1. d	6. b	1. T
2. c	7. a	2. T
3. a	8. d	3. F
4. a	9. d	4. T
5. c	10. b	5. F

Self review 15 – 1:

- If the latest assessed income of the assessee excluding capital gain and agricultural income exceeds taka 400,000; and he has been assessed by way of either regular (U/s - 83) or provisional (U/s - 81); he is eligible to pay AIT.
- If the total income of the assessee excluding capital gain and agricultural income for the income year of the following assessment year is likely to exceed taka 400,000; he is eligible to pay AIT.

Self review 15 – 2:

- In 4 equal installments.
- 15th day of September, December, March and June of the financial year for which the tax is Payable.
- Last assessed income
- If before the 15th May of the year, the assessment of the following year has been completed, then the assessee has to re-compute the amount of AIT on the basis of that income and it should be paid equally in each installment(s) left.